

104TH CONGRESS }  
*2d Session*

HOUSE OF REPRESENTATIVES

{ REPORT  
104-651

WELFARE AND MEDICAID REFORM ACT  
OF 1996

---

R E P O R T

OF THE

COMMITTEE ON THE BUDGET  
HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H.R. 3734

A BILL TO PROVIDE FOR RECONCILIATION PURSUANT TO SECTION 201(a)(1) OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1997

together with

MINORITY, ADDITIONAL, AND DISSENTING VIEWS



JUNE 27, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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PROVIDING FOR RECONCILIATION PURSUANT TO SECTION 201(a)(1) OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1997

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JUNE 27, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. KASICH, from the Committee on the Budget,

submitted the following

R E P O R T

together with

MINORITY, ADDITIONAL, AND DISSENTING VIEWS

[To accompany H.R. 3734]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Budget, to whom reconciliation recommendations were submitted pursuant to section 201(a)(1) of House Concurrent Resolution 178, the concurrent resolution on the budget for fiscal year 1997, having considered the same, report the bill without recommendation.



## **A HELPING HAND, NOT A HANDOUT**

### INTRODUCTION TO THE WELFARE AND MEDICAID REFORM ACT OF 1996

This legislation incorporates two of the most important reforms being undertaken by the 104th Congress: reforming the Nation's failed welfare system and restructuring the Federal/State Medicaid program. The committees of jurisdiction have submitted extensive report language explaining their respective portions of the legislation. This introduction, by the Committee on the Budget, describes the broad policy goals of the reforms.

#### REFORMING WELFARE

There is little doubt that the current welfare system is a failure. It traps recipients in a cycle of dependency. It undermines the values of work and family that form the foundation of America's communities. Most devastating of all, it fails the Nation's children.

These are the pathologies that the welfare reform incorporated in this reconciliation measure is intended to cure.

The reform proposal saves families by promoting work, discouraging illegitimacy, and strengthening child support enforcement. It converts welfare into a helping hand, rather than a handout, by limiting lifetime welfare benefits. It halts payments to people who should not be on welfare. It grants maximum State flexibility to show true compassion by helping those in need achieve the freedom of self-reliance.

Opponents of such genuine reforms have tried to argue that the current system allows for State flexibility by providing waivers from Federal requirements. We reject this alternative—it only maintains a system in which States must beg Washington for permission to innovate for the benefit of their populations. This is not real reform. Only fundamental reform of welfare can correct the damage to families and children that the current system has caused.

#### THE CURRENT WELFARE SYSTEM IS A FAILURE

Consider the following facts about today's welfare system:

- Since 1960, all levels of government have spent \$5.4 trillion (in constant 1992 dollars) on programs to end poverty. Yet the poverty rate has held stubbornly at between 12 percent and 15 percent of the population.
- Total spending on antipoverty programs has risen from \$24.4 billion in 1960 to an estimated \$397.1 billion in 1995.
- While poverty has failed to decline, enrollment in Aid to Families With Dependent Children [AFDC], the principal welfare

program, has increased fivefold. At the same time, illegitimacy has increased 400 percent, the number of single-parent families has increased 238 percent, and violent crime has risen 560 percent. All these pathologies are linked to the current structure of welfare itself.

The welfare system contradicts fundamental American values that ought to be encouraged and rewarded: work, family, personal responsibility, and self-sufficiency. Instead, the system subsidizes dysfunctional behavior.

According to a recent Cato Institute study, the total package of public benefits for low-income persons is, in many cases, substantially more generous than working. Cato notes that welfare pays more than the starting salary for a teacher in 9 States; more than the average salary for a secretary in 29 States; more than an \$8 per hour job in 40 States; and more than the entry level salary for a computer programmer in the most generous States. Furthermore, only 20 percent of those receiving welfare benefits today are covered by any kind of work requirement, and still fewer work.

As welfare discourages work, it encourages long-term dependency. According to research done for the Urban Institute, 90 percent of those currently receiving welfare will eventually spend more than 2 years on the rolls, and 76 percent will receive welfare for more than 5 years. Thus welfare punishes its intended beneficiaries, isolating them from the economic and social mainstream.

The failures of welfare also represent a major factor in America's crime wave. High rates of welfare dependency correlate with high crime rates among young men. Indeed, a lack of married parents—a condition promoted by the current welfare system—contributes more to the crime rate than do race or poverty: A major 1988 study of 11,000 individuals found that “the percentage of single-parent households with children between the ages of 12 to 20 is significantly associated with rates of violent crime and burglary.”

In addition, the welfare system empowers bureaucrats rather than the poor. Washington spends roughly \$150 billion a year on about 75 means-tested programs that the public thinks of as “welfare.” But much of this spending has been absorbed by an expanding bureaucracy for delivering social services that eats up a disproportionate amount of the funds available for fighting poverty.

#### THE CURRENT SYSTEM FAILS CHILDREN

The greatest tragedy of the welfare system is how it harms the Nation's children. By promoting illegitimacy, the system breeds a variety of other pathologies scarring children in ways that can affect their entire lives.

First, welfare-encouraged illegitimacy leads to increased risks of behavioral and emotional problems during childhood. The National Health Interview Survey of Child Health has confirmed that children born out of wedlock have more emotional and behavioral problems than children in intact families. These problems include anti-social behavior, hyperactivity, disobedience, greater peer conflict, and dependency.

Second, welfare-encouraged out-of-wedlock childbearing increases the probability of teen sexual activity and future welfare depend-

ency. According to the National Longitudinal Survey of Youth, teenagers whose mothers have never married are two-and-a-half times more likely to be sexually active. Research done for the Department of Health and Human Services shows that children born out of wedlock are three times more likely to become dependent on welfare than are other children. An analysis by June E. O'Neill, Director of the Congressional Budget Office [CBO], concluded that a 50-percent increase in the monthly value of AFDC and food stamp benefits led to a 43-percent increase in the number of out-of-wedlock births.

Third, the receipt of welfare income has negative effects on young boys with respect to their long-term employment and earnings capacity. According to a University of Michigan study, the more welfare income received by the boy's family while he was growing up, the lower are his earnings as an adult.

#### BENEFITS OF THE WELFARE REFORM PLAN

The welfare reform incorporated in this reconciliation bill saves families and promotes work. CBO estimates that under this proposal, 1.3 million families on welfare will be working in fiscal year 2002. That is 30 percent more welfare recipients gaining the benefits of work experience than CBO estimates would be working under the administration's proposal.

Under the congressional plan, welfare is, for the first time, converted to a work program. The proposal requires one member of every family on welfare to be working within 2 years. Lifetime welfare benefits are limited to 5 years (though exemptions for special hardship may be applied to as many as 20 percent of families if necessary). The plan also fulfills the request of the Nation's Governors for \$4 billion in additional child care funding, resulting in \$3 billion more than current law to assist welfare recipients in obtaining the child care they need to leave welfare and move into the work force. In addition, a \$1-billion performance bonus fund makes additional moneys available to States that are successful in moving welfare recipients off welfare rolls and into productive work.

The proposal also discourages out-of-wedlock childbearing. It allows States to cap benefits for those on welfare, ending bonuses for families on welfare who have additional children they cannot support. States that reduce out-of-wedlock births without increasing abortions are rewarded with further cash grants. Any teenager who gives birth out of wedlock is required to live with an adult and remain in school to continue receiving welfare benefits.

At the same time, child support enforcement is significantly strengthened to ensure that absent noncustodial parents provide financial support for their children. Uniform State tracking procedures are established to catch deadbeat parents. Stronger measures are taken to establish paternity in cases of out-of-wedlock births.

The proposal cuts through the bureaucratic maze that the Washington-centered welfare regime has created. The plan gives States the freedom to innovate in developing income support programs for welfare families that encourage personal responsibility and move welfare recipients into the work force. [By contrast, the President's welfare plan would continue requiring States to seek Federal ap-

proval for such innovations.] Furthermore, States are permitted to harmonize cash welfare assistance and food stamps, so that one set of rules can be used for families applying for both programs. This eliminates bureaucratic duplication while providing one-stop service to program participants.

The plan also combats substance abuse by allowing States to sanction welfare recipients who test positive for illicit drug use.

The congressional welfare reform strategy ends the role of welfare as an immigration magnet and goes significantly farther than the President's proposals in discouraging welfare-based immigration. Under the congressional plan, families that sponsor immigrant relatives will be legally required to provide for the economic well-being of the members they bring to the United States. The reform also would exclude aliens who are not veterans of the U.S. military from receiving food stamps or Supplemental Security Income [SSI] benefits until they have obtained U.S. citizenship, or until they have worked and paid Social Security taxes for at least 40 quarters. This approach is significantly more forceful than the President's proposal, which still allows aliens who have never worked in the United States to obtain these welfare benefits if their U.S. citizen sponsors are low-income as well.

#### THE SHORTCOMINGS OF WAIVERS

Those who advocate the Federal waiver process as an alternative to fundamental welfare reform overlook the basic flaw in this approach: The process leaves unchallenged the notion that Federal bureaucrats in Washington should have the last say in any decision involving the design of programs intended to attack poverty. Waivers, which can be revoked, keep the power in Washington; they cannot substitute for fundamental, systemic changes that empower States and local communities to make their own decisions about how to address the needs of their populations. In virtually every case in which waivers have been granted, States have been required to modify their original programs to obtain Federal approval for the waiver. Thus, welfare recipients are denied the full benefit of the innovations that States are seeking to initiate. In addition, few waivers have been granted statewide, and most of them have involved relatively noncontroversial items such as requiring teenage mothers to attend school or remain in their parents' homes as a condition of receiving benefits.

The administration's treatment of Wisconsin's waiver requests is illuminating. For all of the administration's claims that it is reforming welfare through waivers, it remains to be seen if the administration will actually accept a statewide time limit on welfare benefits such as those the State of Wisconsin has requested. Some White House policymakers already are backtracking on the President's promise to grant Wisconsin the waiver to implement a statewide time limit, and so far the administration has resisted giving this kind of sweeping statewide waiver in a major substantive policy area.

Waivers themselves are treated not as welfare reform measures, but as social science "experiments." The waiver process requires States to maintain "control" groups—recipients who are kept in the existing system so they can be compared with those experiencing

the reform. This approach only serves the social engineers while denying some portion of a State's welfare population an escape from a system that is already known to have failed.

Also, because waivers are considered experimental, they have time limits; they expire after a period of several years, putting the State at risk that a future administration will choose not to renew the waiver, forcing the State to abandon their policy changes and revert to the old system.

#### OHIO'S EXPERIENCE WITH THE WAIVER PROCESS

On March 14, 1996, the administration announced its approval of the State of Ohio's request for waivers from Federal law needed to implement Ohio's welfare reform legislation passed last year. It took the administration 7 months to process the waiver. Nevertheless, Ohio's Governor Voinovich was pleased to finally receive a decision from Washington, and, on the whole, he and other State officials were pleased that most of their plan survived intact. But the administration rejected four parts of the Ohio plan, or requested substantive changes that essentially gutted certain provisions. The administration:

- Watered down Ohio's 36-month time limit on AFDC eligibility for participants in the AFDC JOBS program, essentially removing application of the limit to persons unable to find work after making good faith efforts to do so.
- Denied the State's request to block increases in food stamp benefits for persons whose AFDC benefits were reduced as a sanction for failure to comply with conditions of the new Ohio program.
- Denied the State's request that persons found guilty of welfare fraud could have their Medicaid benefits revoked. The provision applied only to adults in the household; children's benefits would have continued.
- Limited the State's ability to expand its subsidized jobs program, even though it contained safeguards against eliminating currently existing jobs.

In addition to these changes, the Department of Health and Human Services [HHS] prohibited the State from implementing the reforms in five counties, which would serve as a "control" group.

#### RESTRUCTURING MEDICAID

##### SHIFTING POWER AND INFLUENCE OUT OF WASHINGTON

Like the welfare reform strategy embraced in this legislation, the restructuring of Medicaid focuses on shifting greater control and responsibility to the States. It proceeds from the premise that allowing States to design their own programs will make each State better able to address the unique needs of its population. The congressional plan eliminates the current Federal Medicaid law and then adds back any guarantees and guidelines needed to assure appropriate coverage. This represents a key difference with the administration's approach. The President would retain the current Federal Medicaid law (Title XIX of the Social Security Act) and al-



most all of its regulations. Thus the President would keep the power and influence in Washington.

The congressional plan also recognizes that current Medicaid costs—driven by the structure of the Federal-State program itself—are unsustainable. Medicaid spending has exploded: It has grown an average of 19.1 percent annually between 1990 and 1994, and is currently projected to increase by roughly 10 percent a year through 2002 if left unreformed.

The growth of Medicaid spending also has put extraordinary pressure on State budgets. In 1987, Medicaid represented about 10.2 percent of all State expenditures; by 1994, it had increased to about 19.4 percent of all State expenditures. Thus, over a 7-year interval, State Medicaid spending had nearly doubled as a percent of total State spending. This growth has drained State funds from other critical needs, causing a decline in the proportion of State funds for elementary and secondary education, higher education, welfare, and transportation.

Medicaid cost pressure results from Federal micromanagement, complex bureaucratic requirements, outdated delivery systems, federally mandated expansions in eligibility, and waste, fraud, and abuse in the program. Additional cost pressure also comes from practices in the States, because Medicaid requires the Federal Government to pay its preestablished share of whatever the States spend. This encourages States to spend more so they can get more. The House Medicaid reform strategy encourages States instead to establish efficient and effective programs.

#### PROVIDING ADEQUATE FUNDING

Under the congressional Medicaid reform, funding would increase each year, from \$95.7 billion in fiscal year 1996 to \$136.5 billion in fiscal year 2002—a 43-percent increase. Outlays over the next 6 years will equal \$731 billion, a 58-percent increase from the \$463 billion over the previous 6 years. Medicaid spending per recipient would grow from \$2,600 in fiscal year 1996 to \$3,170 in fiscal year 2002. The plan allows States to provide health care for an individual whose income does not exceed 275 percent of the Federal poverty level. [The poverty level for a family of four is \$15,600 for 1996. The 275-percent level would be \$42,900.] States will continue to match the Federal Medicaid dollars to receive Federal funds.

#### ENSURING GUARANTEES OF COVERAGE

To assure that the most vulnerable populations will receive coverage, the plan contains coverage guarantees for the following populations:

- Pregnant women and children under age 6 whose families' incomes are below 133 percent of poverty.
- Children age 6 to 12 whose families' incomes are below 100 percent of poverty and phase in children up to age 18.
- Disabled individuals who meet specified income and resource standards.
- Elderly individuals who meet SSI income and resource standards.

The legislation also contains other, less restrictive, measures such as a requirement that each State continue to spend at least 90 percent of what it had been spending on mandatory services for three broad groups of eligibles: low-income families, low-income elderly, and low-income disabled.

#### PROTECTING NURSING HOME RESIDENTS, THEIR SPOUSES, AND THEIR FAMILIES

The plan maintains the Federal nursing home protections enacted in 1987. It also contains measures to ensure that the spouse of a nursing home resident will not have to impoverish himself or herself to ensure Medicaid nursing home benefits for an institutionalized spouse. Finally, the plan prohibits States from requiring an adult child of an institutionalized parent to contribute to the cost of the nursing facility and other long-term care services covered under the State plan. Contributions by the adult children must be voluntary.

#### PROVIDING A FAIRER DISTRIBUTION OF FUNDS

The current formula distributes Medicaid funds using State per-capita income only. Per-capita income is used as a measure of both the State's need and its fiscal capacity. It is a good measure of neither.

The congressional Medicaid restructuring plan employs a new formula, developed by the General Accounting Office [GAO]. The formula derives from three factors:

- A 3-year rolling average of the number of residents in poverty in each State.
- A "case mix index" reflecting the severity of a State's Medicaid caseload—such as what percentage of Medicaid recipients are elderly as opposed to mothers and children, who are less expensive to care for.
- A health care input cost index, which measures wages paid by hospitals in the State.

The formula also uses the U.S. average spending per person in poverty (the same value for all States) and the current Federal/State matching rate (which varies by State from 50 percent to 80 percent).

#### SPENDING COMPARISONS

Comparisons with historical data, and with the President's proposal, show that the congressional restructuring plan successfully reforms Medicaid and protects vulnerable populations at lower costs than those projected under current law or in the administration's plan [see tables 1 and 2].

For example, the congressional plan slows the growth of Medicaid to an average of 6.1 percent a year over the next 6 years, compared with the 9.7-percent-a-year projected by the Congressional Budget Office [CBO] if no reforms are undertaken. Overall, the plan would spend \$731 billion for Medicaid over the next 6 years, saving \$72 billion from the \$803 billion that CBO projects will be spent in an unreformed program. Nevertheless, the congressional

plan allows for 58 percent more funds over the next 6 years than the \$463 billion spent in the past 6 years.

In contrast, the administration plan calls for a spending growth rate averaging 7.2 percent a year over the next 6 years. The President's plan would spend \$749 billion over 6 years, an increase of 62 percent from the past 6 years. The administration's savings total \$54 billion through 2002.

TABLE 1.—PROJECTED MEDICAID SPENDING  
[In billions of dollars]

	1996	1997	1998	1999	2000	2001	2002
CBO .....	95.7	105.1	115.4	126.4	138.2	151.5	166.4
	(7-Year Increase 1996–2002: 74 Percent)						
Administration .....	95.7	106.6	113.6	120.7	128.4	135.4	144.9
	(7-Year Increase 1996–2002: 51 Percent)						
Congressional Medicaid Reform .....	95.7	105.6	113.9	119.0	124.7	130.9	137.3
	(7-Year Increase 1996–2002: 43 Percent)						

Source: Congressional Budget Office.

TABLE 2.—PROJECTED MEDICAID GROWTH RATES  
[Percentage growth, year by year]

	1997	1998	1999	2000	2001	2002
CBO .....	9.8	9.8	9.5	9.3	9.7	9.9
	(Average Growth Over 6 Years: 9.7 Percent a Year)					
Administration .....	11.4	6.6	6.2	6.4	5.4	7.0
	(Average Growth Over 6 Years: 7.2 Percent a Year)					
Congressional Medicaid Reform .....	10.3	7.9	4.5	4.8	5.0	4.9
	(Average Growth Over 6 Years: 6.1 Percent a Year)					

Source: Congressional Budget Office.

### A WORD ABOUT THE PROCESS

The Welfare and Medicaid Reform Act of 1996 represents the first installment of a three-part reconciliation process envisioned in the conference report on House Concurrent Resolution 178, the budget resolution for fiscal year 1997.

The budget resolution envisions an ambitious agenda of reforms to reduce the size and scope of the Federal Government and to provide tax relief for working American families. Under the most common practice, a major portion of these reforms would be pursued through a single, omnibus reconciliation bill. But such legislation can become so unwieldy and complex that Members may have difficulty grasping its entire content. The House-Senate conferees on an omnibus reconciliation bill can number in the hundreds. Finally, a President may be inclined to veto such legislation, even if he supports parts of it, because he opposes other portions. Thus, the all-or-nothing character of an omnibus bill can force the rejection of even those measures favored by both Congress and the President. More important, the Nation's citizens may sacrifice the benefits of legislative reforms that would have been enacted in a different combination.

The three-part reconciliation process called for by H.Con.Res. 178 seeks to overcome these hurdles by breaking down reconciliation into a more orderly process comprising more manageable pieces. The Welfare and Medicaid Reform Act of 1996 is the first of these. The process permits Congress to follow this bill later in the summer with a Medicare preservation plan and a package of tax relief and miscellaneous direct spending reforms.

As designed in the budget resolution conference report, the multi-reconciliation process provides maximum flexibility to achieve the changes in spending and the tax relief assumed in the budget. For example, any of the spending or revenue changes assumed in the first reconciliation bill could—if the first bill were not enacted—be achieved in the third bill. Moreover, the reconciled committees are permitted to exceed the savings assumed in each of the reconciliation bills.

Nevertheless, the process still requires reconciled committees ultimately to meet their targets, whether incrementally, through the separate reconciliation bills, or solely through the third bill.



# **TITLE I—COMMITTEE ON AGRICULTURE**

## **SEC. 1001. SHORT TITLE.**

This title may be cited as the “Food Stamp Reform and Commodity Distribution Act of 1996”.

## **SEC. 1002. TABLE OF CONTENTS.**

The table of contents of this title is as follows:

### **TITLE I—FOOD STAMPS AND COMMODITY DISTRIBUTION**

Sec. 1001. Short title.

Sec. 1002. Table of contents.

#### **Subtitle A—Food Stamp Program**

Sec. 1011. Definition of certification period.

Sec. 1012. Definition of coupon.

Sec. 1013. Treatment of children living at home.

Sec. 1014. Optional additional criteria for separate household determinations.

Sec. 1015. Adjustment of thrifty food plan.

Sec. 1016. Definition of homeless individual.

Sec. 1017. State option for eligibility standards.

Sec. 1018. Earnings of students.

Sec. 1019. Energy assistance.

Sec. 1020. Deductions from income.

Sec. 1021. Vehicle allowance.

Sec. 1022. Vendor payments for transitional housing counted as income.

Sec. 1023. Doubled penalties for violating food stamp program requirements.

Sec. 1024. Disqualification of convicted individuals.

Sec. 1025. Disqualification.

Sec. 1026. Caretaker exemption.

Sec. 1027. Employment and training.

Sec. 1028. Comparable treatment for disqualification.

Sec. 1029. Disqualification for receipt of multiple food stamp benefits.

Sec. 1030. Disqualification of fleeing felons.

Sec. 1031. Cooperation with child support agencies.

Sec. 1032. Disqualification relating to child support arrears.

Sec. 1033. Work requirement.

Sec. 1034. Encourage electronic benefit transfer systems.

Sec. 1035. Value of minimum allotment.

Sec. 1036. Benefits on recertification.

Sec. 1037. Optional combined allotment for expedited households.

Sec. 1038. Failure to comply with other means-tested public assistance programs.

Sec. 1039. Allotments for households residing in centers.

Sec. 1040. Condition precedent for approval of retail food stores and wholesale food concerns.

Sec. 1041. Authority to establish authorization periods.

Sec. 1042. Information for verifying eligibility for authorization.

Sec. 1043. Waiting period for stores that fail to meet authorization criteria.

Sec. 1044. Operation of food stamp offices.

Sec. 1045. State employee and training standards.

Sec. 1046. Exchange of law enforcement information.

Sec. 1047. Expedited coupon service.

Sec. 1048. Withdrawing fair hearing requests.

Sec. 1049. Income, eligibility, and immigration status verification systems.

- Sec. 1050. Disqualification of retailers who intentionally submit falsified applications.
- Sec. 1051. Disqualification of retailers who are disqualified under the WIC program.
- Sec. 1052. Collection of overissuances.
- Sec. 1053. Authority to suspend stores violating program requirements pending administrative and judicial review.
- Sec. 1054. Expanded criminal forfeiture for violations.
- Sec. 1055. Limitation of Federal match.
- Sec. 1056. Standards for administration.
- Sec. 1057. Work supplementation or support program.
- Sec. 1058. Waiver authority.
- Sec. 1059. Response to waivers.
- Sec. 1060. Employment initiatives program.
- Sec. 1061. Reauthorization.
- Sec. 1062. Simplified food stamp program.
- Sec. 1063. State food assistance block grant.
- Sec. 1064. A study of the use of food stamps to purchase vitamins and minerals.
- Sec. 1065. Investigations.
- Sec. 1066. Food stamp eligibility.
- Sec. 1067. Report by the Secretary.
- Sec. 1068. Deficit reduction.

#### Subtitle B—Commodity Distribution Programs

- Sec. 1071. Emergency food assistance program.
- Sec. 1072. Food bank demonstration project.
- Sec. 1073. Hunger prevention programs.
- Sec. 1074. Report on entitlement commodity processing.

#### Subtitle C—Electronic Benefit Transfer Systems

- Sec. 1091. Provisions to encourage electronic benefit transfer systems.

## Subtitle A—Food Stamp Program

### **SEC. 1011. DEFINITION OF CERTIFICATION PERIOD.**

Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by striking “Except as provided” and all that follows and inserting the following: “The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months.”.

### **SEC. 1012. DEFINITION OF COUPON.**

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking “or type of certificate” and inserting “type of certificate, authorization card, cash or check issued in lieu of a coupon, or an access device, including an electronic benefit transfer card or personal identification number.”.

### **SEC. 1013. TREATMENT OF CHILDREN LIVING AT HOME.**

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking “(who are not themselves parents living with their children or married and living with their spouses)”.

### **SEC. 1014. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.**

Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the third sentence the following:

“Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without regard to the common purchase of food and preparation of meals.”.

**SEC. 1015. ADJUSTMENT OF THRIFTY FOOD PLAN.**

The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking “shall (1) make” and inserting the following: “shall—

“(1) make”;

(2) by striking “scale, (2) make” and inserting “scale;

“(2) make”;

(3) by striking “Alaska, (3) make” and inserting the following: “Alaska;

“(3) make”; and

(4) by striking “Columbia, (4) through” and all that follows through the end of the subsection and inserting the following: “Columbia; and

“(4) on October 1, 1996, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet, in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary may not reduce the cost of the diet in effect on September 30, 1996.”.

**SEC. 1016. DEFINITION OF HOMELESS INDIVIDUAL.**

Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting “for not more than 90 days” after “temporary accommodation”.

**SEC. 1017. STATE OPTION FOR ELIGIBILITY STANDARDS.**

Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking “(b) The Secretary” and inserting the following:

“(b) ELIGIBILITY STANDARDS.—Except as otherwise provided in this Act, the Secretary”.

**SEC. 1018. EARNINGS OF STUDENTS.**

Section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by striking “21” and inserting “19”.

**SEC. 1019. ENERGY ASSISTANCE.**

(a) IN GENERAL.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking paragraph (11) and inserting the following: “(11) a 1-time payment or allowance made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device,”.

(b) CONFORMING AMENDMENTS.—

(1) Section 5(k) of the Act (7 U.S.C. 2014(k)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “plan for aid to families with dependent children approved” and inserting “program funded”; and



(ii) in subparagraph (B), by striking “, not including energy or utility-cost assistance,”;

(B) in paragraph (2), by striking subparagraph (C) and inserting the following:

“(C) a payment or allowance described in subsection (d)(11);” and

(C) by adding at the end the following:

“(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—

“(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a Federal or State law to provide energy assistance to a household shall be considered money payable directly to the household.

“(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e)(7), an expense paid on behalf of a household under a Federal or State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.”

(2) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(A) by striking “(f)(1) Notwithstanding” and inserting “(f) Notwithstanding”;

(B) in paragraph (1), by striking “food stamps,”; and

(C) by striking paragraph (2).

#### **SEC. 1020. DEDUCTIONS FROM INCOME.**

(a) IN GENERAL.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by striking subsection (e) and inserting the following:

“(e) DEDUCTIONS FROM INCOME.—

“(1) STANDARD DEDUCTION.—The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of \$134, \$229, \$189, \$269, and \$118, respectively.

“(2) EARNED INCOME DEDUCTION.—

“(A) DEFINITION OF EARNED INCOME.—In this paragraph, the term ‘earned income’ does not include income excluded by subsection (d) or any portion of income earned under a work supplementation or support program, as defined under section 16(b), that is attributable to public assistance.

“(B) DEDUCTION.—Except as provided in subparagraph (C), a household with earned income shall be allowed a deduction of 20 percent of all earned income to compensate for taxes, other mandatory deductions from salary, and work expenses.

“(C) EXCEPTION.—The deduction described in subparagraph (B) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.

“(3) DEPENDENT CARE DEDUCTION.—

“(A) IN GENERAL.—A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction, the maximum allowable level of

which shall be \$200 per month for each dependent child under 2 years of age and \$175 per month for each other dependent, for the actual cost of payments necessary for the care of a dependent if the care enables a household member to accept or continue employment, or training or education that is preparatory for employment.

“(B) EXCLUDED EXPENSES.—The excluded expenses referred to in subparagraph (A) are—

“(i) expenses paid on behalf of the household by a third party;

“(ii) amounts made available and excluded for the expenses referred to in subparagraph (A) under subsection (d)(3); and

“(iii) expenses that are paid under section 6(d)(4).

“(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

“(A) IN GENERAL.—A household shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.

“(B) METHODS FOR DETERMINING AMOUNT.—The Secretary may prescribe by regulation the methods, including calculation on a retrospective basis, that a State agency shall use to determine the amount of the deduction for child support payments.

“(5) HOMELESS SHELTER ALLOWANCE.—A State agency may develop a standard homeless shelter allowance, which shall not exceed \$143 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the allowance may use the allowance in determining eligibility and allotments for the households, except that the State agency may prohibit the use of the allowance for households with extremely low shelter costs.

“(6) EXCESS MEDICAL EXPENSE DEDUCTION.—

“(A) IN GENERAL.—A household containing an elderly or disabled member shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds \$35 per month.

“(B) METHOD OF CLAIMING DEDUCTION.—

“(i) IN GENERAL.—A State agency shall offer an eligible household under subparagraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting information or verification on actual expenses on a monthly basis.

“(ii) METHOD.—The method described in clause (i) shall—

“(I) be designed to minimize the burden for the eligible elderly or disabled household member

choosing to deduct the recurrent medical expenses of the member pursuant to the method;

“(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and

“(III) not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period.

“(7) EXCESS SHELTER EXPENSE DEDUCTION.—

“(A) IN GENERAL.—A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.

“(B) MAXIMUM AMOUNT OF DEDUCTION.—In the case of a household that does not contain an elderly or disabled individual, the excess shelter expense deduction shall not exceed—

“(i) in the 48 contiguous States and the District of Columbia, \$247 per month; and

“(ii) in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, \$429, \$353, \$300, and \$182 per month, respectively.

“(C) STANDARD UTILITY ALLOWANCE.—

“(i) IN GENERAL.—In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.

“(ii) RESTRICTIONS ON HEATING AND COOLING EXPENSES.—An allowance for a heating or cooling expense may not be used in the case of a household that—

“(I) does not incur a heating or cooling expense, as the case may be;

“(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or

“(III) shares the expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the al-

lowance is prorated between the household and the other individual, household, or both.

“(iii) MANDATORY ALLOWANCE.—

“(I) IN GENERAL.—A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

“(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and

“(bb) the Secretary finds that the standards will not result in an increased cost to the Secretary.

“(II) HOUSEHOLD ELECTION.—A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

“(iv) AVAILABILITY OF ALLOWANCE TO RECIPIENTS OF ENERGY ASSISTANCE.—

“(I) IN GENERAL.—Subject to subclause (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.

“(II) SEPARATE ALLOWANCE.—A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.

“(III) STATES NOT ELECTING TO USE SEPARATE ALLOWANCE.—A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of subparagraph (C)(ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

“(IV) PRORATION OF ASSISTANCE.—For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy As-

sistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.”.

(b) CONFORMING AMENDMENT.—Section 11(e)(3) of the Act (7 U.S.C. 2020(e)(3)) is amended by striking “Under rules prescribed” and all that follows through “verifies higher expenses;”.

**SEC. 1021. VEHICLE ALLOWANCE.**

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking paragraph (2) and inserting the following:

“(2) INCLUDED ASSETS.—

“(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources).

“(B) ADDITIONAL INCLUDED ASSETS.—The Secretary shall include in financial resources—

“(i) any boat, snowmobile, or airplane used for recreational purposes;

“(ii) any vacation home;

“(iii) any mobile home used primarily for vacation purposes;

“(iv) subject to subparagraph (C), any licensed vehicle that is used for household transportation or to obtain or continue employment to the extent that the fair market value of the vehicle exceeds \$4,600; and

“(v) any savings or retirement account (including an individual account), regardless of whether there is a penalty for early withdrawal.

“(C) EXCLUDED VEHICLES.—A vehicle (and any other property, real or personal, to the extent the property is directly related to the maintenance or use of the vehicle) shall not be included in financial resources under this paragraph if the vehicle is—

“(i) used to produce earned income;

“(ii) necessary for the transportation of a physically disabled household member; or

“(iii) depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.”.

**SEC. 1022. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNT-ED AS INCOME.**

Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended—

(1) by striking subparagraph (F); and

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

**SEC. 1023. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.**

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—

- (1) in clause (i), by striking “six months” and inserting “1 year”; and
- (2) in clause (ii), by striking “1 year” and inserting “2 years”.

**SEC. 1024. DISQUALIFICATION OF CONVICTED INDIVIDUALS.**

Section 6(b)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)(iii)) is amended—

- (1) in subclause (II), by striking “or” at the end;
- (2) in subclause (III), by striking the period at the end and inserting “; or”; and
- (3) by inserting after subclause (III) the following:
  - “(IV) a conviction of an offense under subsection (b) or (c) of section 15 involving an item covered by subsection (b) or (c) of section 15 having a value of \$500 or more.”.

**SEC. 1025. DISQUALIFICATION.**

(a) IN GENERAL.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by striking “(d)(1) Unless otherwise exempted by the provisions” and all that follows through the end of paragraph (1) and inserting the following:

“(d) CONDITIONS OF PARTICIPATION.—

“(1) WORK REQUIREMENTS.—

“(A) IN GENERAL.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—

“(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

“(ii) refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required by the State agency;

“(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

“(I) the applicable Federal or State minimum wage; or

“(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

“(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

“(v) voluntarily and without good cause—

“(I) quits a job; or

“(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

“(vi) fails to comply with section 20.

“(B) HOUSEHOLD INELIGIBILITY.—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

“(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

“(ii) 180 days.

“(C) DURATION OF INELIGIBILITY.—

“(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

“(I) the date the individual becomes eligible under subparagraph (A);

“(II) the date that is 1 month after the date the individual became ineligible; or

“(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

“(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

“(I) the date the individual becomes eligible under subparagraph (A);

“(II) the date that is 3 months after the date the individual became ineligible; or

“(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

“(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

“(I) the date the individual becomes eligible under subparagraph (A);

“(II) the date that is 6 months after the date the individual became ineligible;

“(III) a date determined by the State agency; or

“(IV) at the option of the State agency, permanently.

“(D) ADMINISTRATION.—

“(i) GOOD CAUSE.—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.

“(ii) VOLUNTARY QUIT.—The Secretary shall determine the meaning of voluntarily quitting and reducing work effort for the purpose of this paragraph.

“(iii) DETERMINATION BY STATE AGENCY.—

“(I) IN GENERAL.—Subject to subclause (II) and clauses (i) and (ii), a State agency shall determine—

“(aa) the meaning of any term in subparagraph (A);

“(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and

“(cc) whether an individual is in compliance with a requirement under subparagraph (A).

“(II) NOT LESS RESTRICTIVE.—A State agency may not determine a meaning, procedure, or determination under subclause (I) to be less restrictive than a comparable meaning, procedure, or determination under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

“(iv) STRIKE AGAINST THE GOVERNMENT.—For the purpose of subparagraph (A)(v), an employee of the Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.

“(v) SELECTING A HEAD OF HOUSEHOLD.—

“(I) IN GENERAL.—For the purpose of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household if all adult household members making application under the food stamp program agree to the selection.

“(II) TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.

“(vi) CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the food stamp program under subparagraph (B)—

“(I) the household shall, if otherwise eligible, become eligible to participate in the food stamp program; and

“(II) if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineli-



gible to participate in the food stamp program for the remaining period of ineligibility.”.

(b) CONFORMING AMENDMENT.—

(1) The second sentence of section 17(b)(2) of the Act (7 U.S.C. 2026(b)(2)) is amended by striking “6(d)(1)(i)” and inserting “6(d)(1)(A)(i)”.

(2) Section 20 of the Act (7 U.S.C. 2029) is amended by striking subsection (f) and inserting the following:

“(f) DISQUALIFICATION.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.”.

**SEC. 1026. CARETAKER EXEMPTION.**

Section 6(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(2)) is amended by striking subparagraph (B) and inserting the following: “(B) a parent or other member of a household with responsibility for the care of (i) a dependent child under the age of 6 or any lower age designated by the State agency that is not under the age of 1, or (ii) an incapacitated person;”.

**SEC. 1027. EMPLOYMENT AND TRAINING.**

(a) IN GENERAL.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking “Not later than April 1, 1987, each” and inserting “Each”;

(B) by inserting “work,” after “skills, training;” and

(C) by adding at the end the following: “Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through the statewide workforce development system.”;

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking the colon at the end and inserting the following: “, except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application.”;

(B) in clause (i), by striking “with terms and conditions” and all that follows through “time of application”; and

(C) in clause (iv)—

(i) by striking subclauses (I) and (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (I) and (II), respectively;

(3) in subparagraph (D)—

(A) in clause (i), by striking “to which the application” and all that follows through “30 days or less”;

(B) in clause (ii), by striking “but with respect” and all that follows through “child care”; and

(C) in clause (iii), by striking “, on the basis of” and all that follows through “clause (ii)” and inserting “the exemption continues to be valid”;

(4) in subparagraph (E), by striking the third sentence;

- (5) in subparagraph (G)—
  - (A) by striking “(G)(i) The State” and inserting “(G) The State”; and
  - (B) by striking clause (ii);
- (6) in subparagraph (H), by striking “(H)(i) The Secretary” and all that follows through “(ii) Federal funds” and inserting “(H) Federal funds”;
- (7) in subparagraph (I)(i)(II), by striking “, or was in operation,” and all that follows through “Social Security Act” and inserting the following: “), except that no such payment or reimbursement shall exceed the applicable local market rate”;
- (8)(A) by striking subparagraphs (K) and (L) and inserting the following:
 

“(K) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including under subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.).”; and

(B) by redesignating subparagraphs (M) and (N) as subparagraphs (L) and (M), respectively; and

(9) in subparagraph (L), as redesignated by paragraph (8)(B)—

  - (A) by striking “(L)(i) The Secretary” and inserting “(L) The Secretary”; and
  - (B) by striking clause (ii).
- (b) FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended by striking “(h)(1)(A) The Secretary” and all that follows through the end of paragraph (1) and inserting the following:
 

“(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

“(1) IN GENERAL.—

“(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—

  - “(i) for fiscal year 1996, \$75,000,000;
  - “(ii) for fiscal year 1997, \$79,000,000;
  - “(iii) for fiscal year 1998, \$81,000,000;
  - “(iv) for fiscal year 1999, \$84,000,000;
  - “(v) for fiscal year 2000, \$86,000,000;
  - “(vi) for fiscal year 2001, \$88,000,000; and
  - “(vii) for fiscal year 2002, \$90,000,000.

“(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(o).

“(C) REALLOCATION.—

“(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).

“(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

“(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than \$50,000 in each fiscal year.”.

(c) ADDITIONAL MATCHING FUNDS.—Section 16(h)(2) of the Act (7 U.S.C. 2025(h)(2)) is amended by inserting before the period at the end the following: “, including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work”.

(d) REPORTS.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended—

(1) in paragraph (5)—

(A) by striking “(5)(A) The Secretary” and inserting “(5) The Secretary”; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (6).

#### **SEC. 1028. COMPARABLE TREATMENT FOR DISQUALIFICATION.**

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended by adding at the end the following:

“(i) COMPARABLE TREATMENT FOR DISQUALIFICATION.—

“(1) IN GENERAL.—If a disqualification is imposed on a member of a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

“(2) RULES AND PROCEDURES.—If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the food stamp program.

“(3) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that a prior disqualification under subsection (d) shall be considered in determining eligibility.”.

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)) is amended—

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

(2) in paragraph (25), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(26) the guidelines the State agency uses in carrying out section 6(i); and”.

(c) CONFORMING AMENDMENT.—Section 6(d)(2)(A) of the Act (7 U.S.C. 2015(d)(2)(A)) is amended by striking “that is comparable to a requirement of paragraph (1)”.

**SEC. 1029. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.**

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 1028, is amended by adding at the end the following:

“(j) DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.—An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under the food stamp program.”.

**SEC. 1030. DISQUALIFICATION OF FLEEING FELONS.**

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 1028 and 1029, is amended by adding at the end the following:

“(k) DISQUALIFICATION OF FLEEING FELONS.—No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—

“(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

“(2) violating a condition of probation or parole imposed under a Federal or State law.”.

**SEC. 1031. COOPERATION WITH CHILD SUPPORT AGENCIES.**

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 1028 through 1030, is amended by adding at the end the following:

“(l) CUSTODIAL PARENT’S COOPERATION WITH CHILD SUPPORT AGENCIES.—

“(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as ‘the individual’) who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

“(A) in establishing the paternity of the child (if the child is born out of wedlock); and

“(B) in obtaining support for—

- “(i) the child; or
- “(ii) the individual and the child.

“(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

“(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

“(m) NONCUSTODIAL PARENT’S COOPERATION WITH CHILD SUPPORT AGENCIES.—

“(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified noncustodial parent of a child under the age of 18 (referred to in this subsection as ‘the individual’) shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).—

“(A) in establishing the paternity of the child (if the child is born out of wedlock); and

“(B) in providing support for the child.

“(2) REFUSAL TO COOPERATE.—

“(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

“(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

“(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

“(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.”.

#### **SEC. 1032. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.**

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 1028 through 1031, is amended by adding at the end the following:

“(n) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

“(1) IN GENERAL.—At the option of the State agency, no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

“(A) a court is allowing the individual to delay payment; or

“(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.”.

**SEC. 1033. WORK REQUIREMENT.**

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 1028 through 1032, is amended by adding at the end the following:

“(o) WORK REQUIREMENT.—

“(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term ‘work program’ means—

“(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

“(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

“(C) a program of employment and training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under section 6(d)(4), other than a job search program or a job search training program.

“(2) WORK REQUIREMENT.—Subject to the other provisions of this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12-month period, the individual received food stamp benefits for not less than 4 months during which the individual did not—

“(A) work 20 hours or more per week, averaged monthly; or

“(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or

“(C) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.

“(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—

“(A) under 18 or over 50 years of age;

“(B) medically certified as physically or mentally unfit for employment;

“(C) a parent or other member of a household with responsibility for a dependent child;

“(D) otherwise exempt under section 6(d)(2); or

“(E) a pregnant woman.

“(4) WAIVER.—

“(A) IN GENERAL.—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

“(i) has an unemployment rate of over 10 percent;

or

“(ii) does not have a sufficient number of jobs to provide employment for the individuals.

“(B) REPORT.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

“(5) SUBSEQUENT ELIGIBILITY.—

“(A) IN GENERAL.—Paragraph (2) shall cease to apply to an individual if, during a 30-day period, the individual—

“(i) works 80 or more hours;

“(ii) participates in and complies with the requirements of a work program for 80 or more hours, as determined by a State agency; or

“(iii) participates in a program under section 20 or a comparable program established by a State or political subdivision of a State.

“(B) LIMITATION.—During the subsequent 12-month period, the individual shall be eligible to participate in the food stamp program for not more than 4 months during which the individual does not—

“(i) work 20 hours or more per week, averaged monthly;

“(ii) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or

“(iii) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.”.

(b) TRANSITION PROVISION.—Prior to 1 year after the date of enactment of this Act, the term “preceding 12-month period” in section 6(o) of the Food Stamp Act of 1977, as amended by subsection (a), means the preceding period that begins on the date of enactment of this Act.

#### **SEC. 1034. ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.**

(a) IN GENERAL.—Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) ELECTRONIC BENEFIT TRANSFERS.—

“(A) IMPLEMENTATION.—Each State agency shall implement an electronic benefit transfer system in which household benefits determined under section 8(a) or 26 are issued from and stored in a central databank before October 1, 2002, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an electronic benefit transfer system.

“(B) TIMELY IMPLEMENTATION.—State agencies are encouraged to implement an electronic benefit transfer system under subparagraph (A) as soon as practicable.

“(C) STATE FLEXIBILITY.—Subject to paragraph (2), a State agency may procure and implement an electronic

benefit transfer system under the terms, conditions, and design that the State agency considers appropriate.

“(D) OPERATION.—An electronic benefit transfer system should take into account generally accepted standard operating rules based on—

“(i) commercial electronic funds transfer technology;

“(ii) the need to permit interstate operation and law enforcement monitoring; and

“(iii) the need to permit monitoring and investigations by authorized law enforcement agencies.”;

(2) in paragraph (2)—

(A) by striking “effective no later than April 1, 1992,”;

(B) in subparagraph (A)—

(i) by striking “; in any 1 year,”; and

(ii) by striking “on-line”;

(C) by striking subparagraph (D) and inserting the following:

“(D)(i) measures to maximize the security of a system using the most recent technology available that the State agency considers appropriate and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse; and

“(ii) effective not later than 2 years after the effective date of this clause, to the extent practicable, measures that permit a system to differentiate items of food that may be acquired with an allotment from items of food that may not be acquired with an allotment.”;

(D) in subparagraph (G), by striking “and” at the end;

(E) in subparagraph (H), by striking the period at the end and inserting “; and”; and

(F) by adding at the end the following:

“(I) procurement standards.”; and

(3) by adding at the end the following:

“(7) REPLACEMENT OF BENEFITS.—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer system shall be similar to the regulations in effect for a paper food stamp issuance system.

“(8) REPLACEMENT CARD FEE.—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.

“(9) OPTIONAL PHOTOGRAPHIC IDENTIFICATION.—

“(A) IN GENERAL.—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.

“(B) OTHER AUTHORIZED USERS.—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of the household or any authorized representative of the household may utilize the card.



“(10) APPLICATION OF ANTI-TYING RESTRICTIONS TO ELECTRONIC BENEFIT TRANSFER SYSTEMS.—

“(A) IN GENERAL.—A company shall not sell or provide electronic benefit transfer services, or fix or vary the consideration for such services, on the condition or requirement that the customer—

“(i) obtain some additional point-of-sale service from the company or any affiliate of the company; or

“(ii) not obtain some additional point-of-sale service from a competitor of the company or competitor of any affiliate of the company.

“(B) DEFINITIONS.—In this paragraph—

“(i) AFFILIATE.—The term ‘affiliate’ shall have the same meaning as in section 2(k) of the Bank Holding Company Act.

“(ii) COMPANY.—The term ‘company’ shall have the same meaning as in section 106(a) of the Bank Holding Company Act Amendments of 1970, but shall not include a bank, bank holding company, or any subsidiary of a bank holding company.

“(iii) ELECTRONIC BENEFIT TRANSFER SERVICE.—The term ‘electronic benefit transfer service’ means the processing of electronic transfers of household benefits determined under section 8(a) or 26 where the benefits are—

“(I) issued from and stored in a central databank;

“(II) electronically accessed by household members at the point of sale; and

“(III) provided by a Federal or state government.

“(iv) POINT-OF-SALE SERVICE.—The term ‘point-of-sale service’ means any product or service related to the electronic authorization and processing of payments for merchandise at a retail food store, including but not limited to credit or debit card services, automated teller machines, point-of-sale terminals, or access to on-line systems.

“(C) CONSULTATION WITH THE FEDERAL RESERVE BOARD.—Before promulgating regulations or interpretations of regulations to carry out this paragraph, the Secretary shall consult with the Board of Governors of the Federal Reserve System.”.

(b) SENSE OF CONGRESS.—It is the sense of Congress that a State that operates an electronic benefit transfer system under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) should operate the system in a manner that is compatible with electronic benefit transfer systems operated by other States.

**SEC. 1035. VALUE OF MINIMUM ALLOTMENT.**

The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking “, and shall be adjusted” and all that follows through “\$5”.

**SEC. 1036. BENEFITS ON RECERTIFICATION.**

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking “of more than one month”.

**SEC. 1037. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.**

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by striking paragraph (3) and inserting the following:

“(3) OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 11(e)(3) in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 11(e) in the case of a household that is entitled to expedited service.”.

**SEC. 1038. FAILURE TO COMPLY WITH OTHER MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS.**

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:

“(d) REDUCTION OF PUBLIC ASSISTANCE BENEFITS.—

“(1) IN GENERAL.—If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction—

“(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

“(B) the State agency may reduce the allotment of the household by not more than 25 percent.

“(2) RULES AND PROCEDURES.—If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to reduce the allotment under the food stamp program.”.

**SEC. 1039. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.**

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

“(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.—

“(1) IN GENERAL.—In the case of an individual who resides in a center for the purpose of a drug or alcoholic treatment program described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—

“(A) the center as an authorized representative of the individual for a period that is less than 1 month; and

“(B) the individual, if the individual leaves the center.

“(2) DIRECT PAYMENT.—A State agency may require an individual referred to in paragraph (1) to designate the center in

which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.”.

**SEC. 1040. CONDITION PRECEDENT FOR APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.**

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: “No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the food stamp program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.”.

**SEC. 1041. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.**

Section 9(a) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)) is amended by adding at the end the following:

“(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem coupons, or to redeem benefits through an electronic benefit transfer system, shall be valid under the food stamp program.”.

**SEC. 1042. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.**

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence, by inserting “, which may include relevant income and sales tax filing documents,” after “submit information”; and

(2) by inserting after the first sentence the following: “The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified.”.

**SEC. 1043. WAITING PERIOD FOR STORES THAT FAIL TO MEET AUTHORIZATION CRITERIA.**

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: “A retail food store or wholesale food concern that is denied approval to accept and redeem coupons because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial.”.

**SEC. 1044. OPERATION OF FOOD STAMP OFFICES.**

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020), as amended by sections 1020(b) and 1028(b), is amended—

(1) in subsection (e)—

(A) by striking paragraph (2) and inserting the following:

“(2)(A) that the State agency shall establish procedures governing the operation of food stamp offices that the State agency determines best serve households in the State, including households with special needs, such as households with elderly or disabled members, households in rural areas with low-income members, homeless individuals, households residing on reservations, and households in areas in which a substantial number of members of low-income households speak a language other than English;

“(B) that in carrying out subparagraph (A), a State agency—

“(i) shall provide timely, accurate, and fair service to applicants for, and participants in, the food stamp program;

“(ii) shall develop an application containing the information necessary to comply with this Act;

“(iii) shall permit an applicant household to apply to participate in the program on the same day that the household first contacts a food stamp office in person during office hours;

“(iv) shall consider an application that contains the name, address, and signature of the applicant to be filed on the date the applicant submits the application;

“(v) shall require that an adult representative of each applicant household certify in writing, under penalty of perjury, that—

“(I) the information contained in the application is true; and

“(II) all members of the household are citizens or are aliens eligible to receive food stamps under section 6(f);

“(vi) shall provide a method of certifying and issuing coupons to eligible homeless individuals, to ensure that participation in the food stamp program is limited to eligible households; and

“(vii) may establish operating procedures that vary for local food stamp offices to reflect regional and local differences within the State;

“(C) that nothing in this Act shall prohibit the use of signatures provided and maintained electronically, storage of records using automated retrieval systems only, or any other feature of a State agency’s application system that does not rely exclusively on the collection and retention of paper applications or other records;

“(D) that the signature of any adult under this paragraph shall be considered sufficient to comply with any provision of Federal law requiring a household member to sign an application or statement;”;

(B) in paragraph (3), as amended by section 1020(b)—

(i) by striking “shall—” and all that follows through “provide each” and inserting “shall provide each”; and

- (ii) by striking “(B) assist” and all that follows through “representative of the State agency;”;
- (C) by striking paragraphs (14) and (25);
- (D)(i) by redesignating paragraphs (15) through (24) as paragraphs (14) through (23), respectively; and
- (ii) by redesignating paragraph (26), as added by section 1028(b), as paragraph (24); and
- (2) in subsection (i)—
  - (A) by striking “(i) Notwithstanding” and all that follows through “(2)” and inserting the following:
 

“(i) APPLICATION AND DENIAL PROCEDURES.—

“(1) APPLICATION PROCEDURES.—Notwithstanding any other provision of law,”; and

(B) by striking “; (3) households” and all that follows through “title IV of the Social Security Act. No” and inserting a period and the following:

“(2) DENIAL AND TERMINATION.—Other than in a case of disqualification as a penalty for failure to comply with a public assistance program rule or regulation, no”.

**SEC. 1045. STATE EMPLOYEE AND TRAINING STANDARDS.**

Section 11(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(6)) is amended—

- (1) by striking “that (A) the” and inserting “that—  
“(A) the”;
- (2) by striking “Act; (B) the” and inserting “Act; and  
“(B) the”;
- (3) in subparagraph (B), by striking “United States Civil Service Commission” and inserting “Office of Personnel Management”; and
- (4) by striking subparagraphs (C) through (E).

**SEC. 1046. EXCHANGE OF LAW ENFORCEMENT INFORMATION.**

Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended—

- (1) by striking “that (A) such” and inserting the following:
 

“that—  
“(A) the”;
- (2) by striking “law, (B) notwithstanding” and inserting the following: “law;  
“(B) notwithstanding”;
- (3) by striking “Act, and (C) such” and inserting the following: “Act;  
“(C) the”; and
- (4) by adding at the end the following:
 

“(D) notwithstanding any other provision of law, the address, social security number, and, if available, photograph of any member of a household shall be made available, on request, to any Federal, State, or local law enforcement officer if the officer furnishes the State agency with the name of the member and notifies the agency that—  
“(i) the member—  
“(I) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime (or at-

tempt to commit a crime) that, under the law of the place the member is fleeing, is a felony (or, in the case of New Jersey, a high misdemeanor), or is violating a condition of probation or parole imposed under Federal or State law; or

“(II) has information that is necessary for the officer to conduct an official duty related to subclause (I);

“(ii) locating or apprehending the member is an official duty; and

“(iii) the request is being made in the proper exercise of an official duty; and

“(E) the safeguards shall not prevent compliance with paragraph (16);”.

**SEC. 1047. EXPEDITED COUPON SERVICE.**

Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended—

(1) in subparagraph (A)—

(A) by striking “five days” and inserting “7 days”; and

(B) by inserting “and” at the end;

(2) by striking subparagraphs (B) and (C);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B), as redesignated by paragraph (3), by striking “, (B), or (C)”.

**SEC. 1048. WITHDRAWING FAIR HEARING REQUESTS.**

Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end a period and the following: “At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and providing the household with an opportunity to request a hearing”.

**SEC. 1049. INCOME, ELIGIBILITY, AND IMMIGRATION STATUS VERIFICATION SYSTEMS.**

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended—

(1) in subsection (e)(18), as redesignated by section 1044(1)(D)—

(A) by striking “that information is” and inserting “at the option of the State agency, that information may be”; and

(B) by striking “shall be requested” and inserting “may be requested”; and

(2) by adding at the end the following:

“(p) STATE VERIFICATION OPTION.—Notwithstanding any other provision of law, in carrying out the food stamp program, a State agency shall not be required to use an income and eligibility or an immigration status verification system established under section 1137 of the Social Security Act (42 U.S.C. 1320b–7).”.

**SEC. 1050. DISQUALIFICATION OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.**

Section 12(b) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)) is amended—

- (1) in paragraph (2), by striking “and” at the end;
- (2) in paragraph (3), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:
  - “(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.”.

**SEC. 1051. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.**

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

“(g) DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.—

“(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this Act of an approved retail food store and a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 1786).

“(2) TERMS.—A disqualification under paragraph (1)—

“(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

“(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

“(C) notwithstanding section 14, shall not be subject to judicial or administrative review.”.

**SEC. 1052. COLLECTION OF OVERISSUANCES.**

(a) COLLECTION OF OVERISSUANCES.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) COLLECTION OF OVERISSUANCES.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

“(A) reducing the allotment of the household;

“(B) withholding amounts from unemployment compensation from a member of the household under subsection (c);

“(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

“(D) any other means.

“(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

“(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

“(A) 10 percent of the monthly allotment of the household; or

“(B) \$10.

“(4) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment.”; and

(2) in subsection (d)—

(A) by striking “as determined under subsection (b) and except for claims arising from an error of the State agency,” and inserting “, as determined under subsection (b)(1),”; and

(B) by inserting before the period at the end the following: “or a Federal income tax refund as authorized by section 3720A of title 31, United States Code”.

(b) CONFORMING AMENDMENTS.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking “and excluding claims” and all that follows through “such section”; and

(2) by inserting before the semicolon at the end the following: “or a Federal income tax refund as authorized by section 3720A of title 31, United States Code”.

(c) RETENTION RATE.—Section 16(a) of the Act (7 U.S.C. 2025(a)) is amended by striking “25 percent during the period beginning October 1, 1990” and all that follows through “error of a State agency” and inserting the following: “25 percent of the overissuances collected by the State agency under section 13, except those overissuances arising from an error of the State agency”.

**SEC. 1053. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.**

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) by redesignating the first through seventeenth sentences as paragraphs (1) through (17), respectively; and

(2) by adding at the end the following:

“(18) SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 12(b) shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.”.



**SEC. 1054. EXPANDED CRIMINAL FORFEITURE FOR VIOLATIONS.**

(a) **FORFEITURE OF ITEMS EXCHANGED IN FOOD STAMP TRAF-FICKING.**—The first sentence of section 15(g) of the Food Stamp Act of 1977 (7 U.S.C. 2024(g)) is amended by striking “or intended to be furnished”.

(b) **CRIMINAL FORFEITURE.**—Section 15 of the Act (7 U.S.C. 2024) is amended by adding at the end the following:

“(h) **CRIMINAL FORFEITURE.**—

“(1) **IN GENERAL.**—In imposing a sentence on a person convicted of an offense in violation of subsection (b) or (c), a court shall order, in addition to any other sentence imposed under this subsection, that the person forfeit to the United States all property described in paragraph (2).

“(2) **PROPERTY SUBJECT TO FORFEITURE.**—All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation (other than a misdemeanor) of subsection (b) or (c), or proceeds traceable to a violation of subsection (b) or (c), shall be subject to forfeiture to the United States under paragraph (1).

“(3) **INTEREST OF OWNER.**—No interest in property shall be forfeited under this subsection as the result of any act or omission established by the owner of the interest to have been committed or omitted without the knowledge or consent of the owner.

“(4) **PROCEEDS.**—The proceeds from any sale of forfeited property and any monies forfeited under this subsection shall be used—

“(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding;

“(B) second, to reimburse the Department of Agriculture Office of Inspector General for any costs the Office incurred in the law enforcement effort resulting in the forfeiture;

“(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

“(D) fourth, by the Secretary to carry out the approval, reauthorization, and compliance investigations of retail stores and wholesale food concerns under section 9.”.

**SEC. 1055. LIMITATION OF FEDERAL MATCH.**

Section 16(a)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)(4)) is amended by inserting after the comma at the end the following: “but not including recruitment activities,”.

**SEC. 1056. STANDARDS FOR ADMINISTRATION.**

(a) **IN GENERAL.**—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by striking subsection (b).

(b) **CONFORMING AMENDMENTS.**—

(1) The first sentence of section 11(g) of the Act (7 U.S.C. 2020(g)) is amended by striking “the Secretary’s standards for the efficient and effective administration of the program established under section 16(b)(1) or”.

(2) Section 16(c)(1)(B) of the Act (7 U.S.C. 2025(c)(1)(B)) is amended by striking “pursuant to subsection (b)”.

**SEC. 1057. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.**

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025), as amended by section 1056(a), is amended by inserting after subsection (a) the following:

“(b) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

“(1) DEFINITION OF WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—In this subsection, the term ‘work supplementation or support program’ means a program under which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a public assistance recipient who was not employed by the employer at the time the public assistance recipient entered the program.

“(2) PROGRAM.—A State agency may elect to use an amount equal to the allotment that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting a job under a work supplementation or support program established by the State.

“(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—

“(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

“(B) the State agency shall expend the amount received under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

“(C) for purposes of—

“(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and

“(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

“(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

“(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 6(d), except during the periods in which the individual is employed under the work supplementation or support program.

“(5) LENGTH OF PARTICIPATION.—A State agency shall provide a description of how the public assistance recipients in the program shall, within a specific period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported.

“(6) DISPLACEMENT.—A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.”.

**SEC. 1058. WAIVER AUTHORITY.**

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) in subparagraph (A)—

(A) by striking the second sentence; and

(B) by striking “benefits to eligible households, including” and inserting the following: “benefits to eligible households, and may waive any requirement of this Act to the extent necessary for the project to be conducted.

“(B) PROJECT REQUIREMENTS.—

“(i) PROGRAM GOAL.—The Secretary may not conduct a project under subparagraph (A) unless the project is consistent with the goal of the food stamp program of providing food assistance to raise levels of nutrition among low-income individuals.

“(ii) PERMISSIBLE PROJECTS.—The Secretary may conduct a project under subparagraph (A) to—

“(I) improve program administration;

“(II) increase the self-sufficiency of food stamp recipients;

“(III) test innovative welfare reform strategies; and

“(IV) allow greater conformity with the rules of other programs than would be allowed but for this paragraph.

“(iii) IMPERMISSIBLE PROJECTS.—The Secretary may not conduct a project under subparagraph (A) that—

“(I) involves the payment of the value of an allotment in the form of cash, unless the project was approved prior to the date of enactment of this subparagraph;

“(II) substantially transfers funds made available under this Act to services or benefits provided primarily through another public assistance program; or

“(III) is not limited to a specific time period.

“(iv) ADDITIONAL INCLUDED PROJECTS.—Pilot or experimental projects may include”.

**SEC. 1059. RESPONSE TO WAIVERS.**

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)), as amended by section 1058, is amended by adding at the end the following:

“(D) RESPONSE TO WAIVERS.—

“(i) RESPONSE.—Not later than 60 days after the date of receiving a request for a waiver under subparagraph (A), the Secretary shall provide a response that—

“(I) approves the waiver request;

“(II) denies the waiver request and explains any modification needed for approval of the waiver request;

“(III) denies the waiver request and explains the grounds for the denial; or

“(IV) requests clarification of the waiver request.

“(ii) FAILURE TO RESPOND.—If the Secretary does not provide a response in accordance with clause (i), the waiver shall be considered approved, unless the approval is specifically prohibited by this Act.

“(iii) NOTICE OF DENIAL.—On denial of a waiver request under clause (i)(III), the Secretary shall provide a copy of the waiver request and a description of the reasons for the denial to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.”.

**SEC. 1060. EMPLOYMENT INITIATIVES PROGRAM.**

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (d) and inserting the following:

“(d) EMPLOYMENT INITIATIVES PROGRAM.—

“(1) ELECTION TO PARTICIPATE.—

“(A) IN GENERAL.—Subject to the other provisions of this subsection, a State may elect to carry out an employment initiatives program under this subsection.

“(B) REQUIREMENT.—A State shall be eligible to carry out an employment initiatives program under this subsection only if not less than 50 percent of the households that received food stamp benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

“(2) PROCEDURE.—

“(A) IN GENERAL.—A State that has elected to carry out an employment initiatives program under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).

“(B) PAYMENT.—The Secretary shall pay to each State that has elected to carry out an employment initiatives program under paragraph (1) an amount equal to the value of the allotment that each household would be eligible to receive under this Act but for the operation of this subsection.

“(C) OTHER PROVISIONS.—For purposes of the food stamp program (other than this subsection)—

“(i) cash assistance under this subsection shall be considered to be an allotment; and

“(ii) each household receiving cash benefits under this subsection shall not receive any other food stamp benefit for the period for which the cash assistance is provided.

“(D) ADDITIONAL PAYMENTS.—Each State that has elected to carry out an employment initiatives program under paragraph (1) shall—

“(i) increase the cash benefits provided to each household under this subsection to compensate for any State or local sales tax that may be collected on purchases of food by any household receiving cash benefits under this subsection, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

“(ii) pay the cost of any increase in cash benefits required by clause (i).

“(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

“(A) has worked in unsubsidized employment for not less than the preceding 90 days;

“(B) has earned not less than \$350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;

“(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

“(ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;

“(D) is continuing to earn not less than \$350 per month from the employment referred to in subparagraph (A); and

“(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.

“(4) EVALUATION.—A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.”.

#### **SEC. 1061. REAUTHORIZATION.**

The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking “1991 through 1997” and inserting “1996 through 2002”.

**SEC. 1062. SIMPLIFIED FOOD STAMP PROGRAM.**

(a) IN GENERAL.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

**“SEC. 26. SIMPLIFIED FOOD STAMP PROGRAM.**

“(a) DEFINITION OF FEDERAL COSTS.—In this section, the term ‘Federal costs’ does not include any Federal costs incurred under section 17.

“(b) ELECTION.—Subject to subsection (d), a State may elect to carry out a Simplified Food Stamp Program (referred to in this section as a ‘Program’), statewide or in a political subdivision of the State, in accordance with this section.

“(c) OPERATION OF PROGRAM.—If a State elects to carry out a Program, within the State or a political subdivision of the State—

“(1) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program; and

“(2) subject to subsection (f), benefits under the Program shall be determined under rules and procedures established by the State under—

“(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

“(B) the food stamp program (other than section 27);

or

“(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the food stamp program (other than section 27).

“(d) APPROVAL OF PROGRAM.—

“(1) STATE PLAN.—A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

“(2) APPROVAL OF PLAN.—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

“(A) complies with this section; and

“(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.

“(e) INCREASED FEDERAL COSTS.—

“(1) DETERMINATION.—During each fiscal year and not later than 90 days after the end of each fiscal year, the Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this Act above the Federal costs incurred under the food stamp program in operation in the State or political subdivision of the State for the fiscal year prior to the implementation of the Program, adjusted for any changes in—

“(A) participation;

“(B) the income of participants in the food stamp program that is not attributable to public assistance; and

“(C) the thrifty food plan under section 3(o).

“(2) NOTIFICATION.—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year or any portion of any fiscal year, the Secretary shall

notify the State not later than 30 days after the Secretary makes the determination under paragraph (1).

“(3) ENFORCEMENT.—

“(A) CORRECTIVE ACTION.—Not later than 90 days after the date of a notification under paragraph (2), the State shall submit a plan for approval by the Secretary for prompt corrective action that is designed to prevent the Program from increasing Federal costs under this Act.

“(B) TERMINATION.—If the State does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency operating the Program and the State agency shall be ineligible to operate a future Program.

“(f) RULES AND PROCEDURES.—

“(1) IN GENERAL.—In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or political subdivision under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under the food stamp program.

“(2) STANDARDIZED DEDUCTIONS.—In operating a Program, a State or political subdivision of a State may standardize the deductions provided under section 5(e). In developing the standardized deduction, the State shall consider the work expenses, dependent care costs, and shelter costs of participating households.

“(3) REQUIREMENTS.—In operating a Program, a State or political subdivision shall comply with the requirements of—

“(A) subsections (a) through (g) of section 7;

“(B) section 8(a) (except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));

“(C) subsection (b) and (d) of section 8;

“(D) subsections (a), (c), (d), and (n) of section 11;

“(E) paragraphs (8), (12), (16), (18), (20), (24), and (25) of section 11(e);

“(F) section 11(e)(10) (or a comparable requirement established by the State under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

“(G) section 16.

“(4) LIMITATION ON ELIGIBILITY.—Notwithstanding any other provision of this section, a household may not receive benefits under this section as a result of the eligibility of the household under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.”.

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)), as amended by sections 1020(b), 1028(b), and 1044, is amended by adding at the end the following:

“(25) if a State elects to carry out a Simplified Food Stamp Program under section 26, the plans of the State agency for operating the program, including—

“(A) the rules and procedures to be followed by the State agency to determine food stamp benefits;

“(B) how the State agency will address the needs of households that experience high shelter costs in relation to the incomes of the households; and

“(C) a description of the method by which the State agency will carry out a quality control system under section 16(c).”.

(c) CONFORMING AMENDMENTS.—

(1) Section 8 of the Act (7 U.S.C. 2017), as amended by section 1039, is amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (f) as subsection (e).

(2) Section 17 of the Act (7 U.S.C. 2026) is amended—

(A) by striking subsection (i); and

(B) by redesignating subsections (j) through (l) as subsections (i) through (k), respectively.

**SEC. 1063. STATE FOOD ASSISTANCE BLOCK GRANT.**

(a) IN GENERAL.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 1062, is amended by adding at the end the following:

**“SEC. 27. STATE FOOD ASSISTANCE BLOCK GRANT.**

“(a) DEFINITIONS.—In this section:

“(1) FOOD ASSISTANCE.—The term ‘food assistance’ means assistance that may be used only to obtain food, as defined in section 3(g).

“(2) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, Guam, and the Virgin Islands of the United States.

“(b) ESTABLISHMENT.—The Secretary shall establish a program to make grants to States in accordance with this section to provide—

“(1) food assistance to needy individuals and families residing in the State; and

“(2) funds for administrative costs incurred in providing the assistance.

“(c) ELECTION.—

“(1) IN GENERAL.—A State may annually elect to participate in the program established under subsection (b) if the State—

“(A) has fully implemented an electronic benefit transfer system that operates in the entire State;

“(B) has a payment error rate under section 16(c) that is not more than 6 percent as announced most recently by the Secretary; or

“(C) has a payment error rate in excess of 6 percent and agrees to contribute non-Federal funds for the fiscal year of the grant, for benefits and administration of the State’s food assistance program, the amount determined under paragraph (2).



“(2) STATE MANDATORY CONTRIBUTIONS.—

“(A) IN GENERAL.—In the case of a State that elects to participate in the program under paragraph (1)(C), the State shall agree to contribute, for a fiscal year, an amount equal to—

“(i) the benefits issued in the State; multiplied by

“(ii) the payment error rate of the State; minus

“(B)(i) the benefits issued in the State; multiplied by

“(ii) 6 percent.

“(B) DETERMINATION.—Notwithstanding sections 13 and 14, the calculation of the contribution shall be based solely on the determination of the Secretary of the payment error rate.

“(C) DATA.—For purposes of implementing subparagraph (A) for a fiscal year, the Secretary shall use the data for the most recent fiscal year available.

“(3) ELECTION LIMITATION.—

“(A) RE-ENTERING FOOD STAMP PROGRAM.—A State that elects to participate in the program under paragraph (1) may in a subsequent year decline to elect to participate in the program and instead participate in the food stamp program in accordance with the other sections of this Act.

“(B) LIMITATION.—Subsequent to re-entering the food stamp program under subparagraph (A), the State shall only be eligible to participate in the food stamp program in accordance with the other sections of this Act and shall not be eligible to elect to participate in the program established under subsection (b).

“(4) PROGRAM EXCLUSIVE.—

“(A) IN GENERAL.—A State that is participating in the program established under subsection (b) shall not be subject to, or receive any benefit under, this Act except as provided in this section.

“(B) CONTRACT WITH FEDERAL GOVERNMENT.—Nothing in this section shall prohibit a State from contracting with the Federal Government for the provision of services or materials necessary to carry out a program under this section.

“(d) LEAD AGENCY.—A State desiring to receive a grant under this section shall designate, in an application submitted to the Secretary under subsection (e)(1), an appropriate State agency responsible for the administration of the program under this section as the lead agency.

“(e) APPLICATION AND PLAN.—

“(1) APPLICATION.—To be eligible to receive assistance under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by regulation require, including—

“(A) an assurance that the State will comply with the requirements of this section;

“(B) a State plan that meets the requirements of paragraph (3); and

“(C) an assurance that the State will comply with the requirements of the State plan under paragraph (3).

“(2) ANNUAL PLAN.—The State plan contained in the application under paragraph (1) shall be submitted for approval annually.

“(3) REQUIREMENTS OF PLAN.—

“(A) LEAD AGENCY.—The State plan shall identify the lead agency.

“(B) USE OF BLOCK GRANT FUNDS.—The State plan shall provide that the State shall use the amounts provided to the State for each fiscal year under this section—

“(i) to provide food assistance to needy individuals and families residing in the State, other than residents of institutions who are ineligible for food stamps under section 3(i); and

“(ii) to pay administrative costs incurred in providing the assistance.

“(C) GROUPS SERVED.—The State plan shall describe how and to what extent the program will serve specific groups of individuals and families and how the treatment will differ from treatment under the food stamp program under the other sections of this Act of the individuals and families, including—

“(i) elderly individuals and families;

“(ii) migrants or seasonal farmworkers;

“(iii) homeless individuals and families;

“(iv) individuals and families who live in institutions eligible under section 3(i);

“(v) individuals and families with earnings; and

“(vi) members of Indian tribes or tribal organizations.

“(D) ASSISTANCE FOR ENTIRE STATE.—The State plan shall provide that benefits under this section shall be available throughout the entire State.

“(E) NOTICE AND HEARINGS.—The State plan shall provide that an individual or family who applies for, or receives, assistance under this section shall be provided with notice of, and an opportunity for a hearing on, any action under this section that adversely affects the individual or family.

“(F) ASSESSMENT OF NEEDS.—The State plan shall assess the food and nutrition needs of needy persons residing in the State.

“(G) ELIGIBILITY STANDARDS.—The State plan shall describe the income, resource, and other eligibility standards that are established for the receipt of assistance under this section.

“(H) DISQUALIFICATION OF FLEEING FELONS.—The State plan shall provide for the disqualification of any individual who would be disqualified from participating in the food stamp program under section 6(k).

“(I) RECEIVING BENEFITS IN MORE THAN 1 JURISDICTION.—The State plan shall establish a system for the ex-

change of information with other States to verify the identity and receipt of benefits by recipients.

“(J) PRIVACY.—The State plan shall provide for safeguarding and restricting the use and disclosure of information about any individual or family receiving assistance under this section.

“(K) OTHER INFORMATION.—The State plan shall contain such other information as may be required by the Secretary.

“(4) APPROVAL OF APPLICATION AND PLAN.—The Secretary shall approve an application and State plan that satisfies the requirements of this section.

“(f) NO INDIVIDUAL OR FAMILY ENTITLEMENT TO ASSISTANCE.—Nothing in this section—

“(1) entitles any individual or family to assistance under this section; or

“(2) limits the right of a State to impose additional limitations or conditions on assistance under this section.

“(g) BENEFITS FOR ALIENS.—

“(1) ELIGIBILITY.—No individual who is an alien shall be eligible to receive benefits under a State plan approved under subsection (e)(4) if the individual is not eligible to participate in the food stamp program due to the alien status of the individual.

“(2) INCOME.—The State plan shall provide that the income of an alien shall be determined in accordance with section 5(i).

“(h) EMPLOYMENT AND TRAINING.—

“(1) WORK REQUIREMENTS.—No individual or household shall be eligible to receive benefits under a State plan funded under this section if the individual or household is not eligible to participate in the food stamp program under subsection (d) or (o) of section 6.

“(2) WORK PROGRAMS.—Each State shall implement an employment and training program in accordance with the terms and conditions of section 6(d)(4) for individuals under the program and shall be eligible to receive funding under section 16(h).

“(i) ENFORCEMENT.—

“(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this section and the State plan approved under subsection (e)(4).

“(2) NONCOMPLIANCE.—

“(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

“(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan approved under subsection (e)(4); or

“(ii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section;

the Secretary shall notify the State of the finding and that no further grants will be made to the State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further grants to the State will be made with respect to the program or activity) until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

“(B) OTHER PENALTIES.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to, or in lieu of, imposing the penalties described in subparagraph (A), impose other appropriate penalties, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

“(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional penalty being imposed under subparagraph (B).

“(3) ISSUANCE OF REGULATIONS.—The Secretary shall establish by regulation procedures for—

“(A) receiving, processing, and determining the validity of complaints made to the Secretary concerning any failure of a State to comply with the State plan or any requirement of this section; and

“(B) imposing penalties under this section.

“(j) GRANT.—

“(1) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under subsection (e)(4) an amount that is equal to the grant of the State under subsection (m) for the fiscal year.

“(2) METHOD OF GRANT.—The Secretary shall make a grant to a State for a fiscal year under this section by issuing 1 or more letters of credit for the fiscal year, with necessary adjustments on account of overpayments or underpayments, as determined by the Secretary.

“(3) SPENDING OF GRANTS BY STATE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a grant to a State determined under subsection (m)(1) for a fiscal year may be expended by the State only in the fiscal year.

“(B) CARRYOVER.—The State may reserve up to 10 percent of a grant determined under subsection (m)(1) for a fiscal year to provide assistance under this section in subsequent fiscal years, except that the reserved funds may not exceed 30 percent of the total grant received under this section for a fiscal year.

“(4) FOOD ASSISTANCE AND ADMINISTRATIVE EXPENDITURES.—In each fiscal year, not more than 6 percent of the Federal and State funds required to be expended by a State under this section shall be used for administrative expenses.

“(5) PROVISION OF FOOD ASSISTANCE.—A State may provide food assistance under this section in any manner determined appropriate by the State, such as electronic benefit transfer

limited to food purchases, coupons limited to food purchases, or direct provision of commodities.

“(k) QUALITY CONTROL.—Each State participating in the program established under this section shall maintain a system in accordance with, and shall be subject to section 16(c), including sanctions and eligibility for incentive payment under section 16(c), adjusted for State specific characteristics under regulations issued by the Secretary.

“(l) NONDISCRIMINATION.—

“(1) IN GENERAL.—The Secretary shall not provide financial assistance for any program, project, or activity under this section if any person with responsibilities for the operation of the program, project, or activity discriminates with respect to the program, project, or activity because of race, religion, color, national origin, sex, or disability.

“(2) ENFORCEMENT.—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).

“(m) GRANT CALCULATION.—

“(1) STATE GRANT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), from the amounts made available under section 18 for each fiscal year, the Secretary shall provide a grant to each State participating in the program established under this section an amount that is equal to the sum of—

“(i) the greater of, as determined by the Secretary—

“(I) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1994; or

“(II) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1992 through 1994; and

“(ii) the greater of, as determined by the Secretary—

“(I) the total amount received by the State for administrative costs under section 16(a) (not including any adjustment under section 16(c)) for fiscal year 1994; or

“(II) the average per fiscal year of the total amount received by the State for administrative costs under section 16(a) (not including any adjustment under section 16(c)) for each of fiscal years 1992 through 1994.

“(B) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of grants to which States would otherwise be entitled for a fiscal year under subparagraph (A) will exceed the amount of funds that will be made available to provide the grants for the fiscal year, the Secretary shall reduce the grants made to States under this subsection, on a pro rata basis, to the extent necessary.

“(2) REDUCTION.—The Secretary shall reduce the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C).”.

(b) EMPLOYMENT AND TRAINING FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(a)), as amended by section 1027(d)(2), is amended by adding at the end the following:

“(6) BLOCK GRANT STATES.—Each State electing to operate a program under section 27 shall—

“(A) receive the greater of—

“(i) the total dollar value of the funds received under paragraph (1) by the State during fiscal year 1994; or

“(ii) the average per fiscal year of the total dollar value of all funds received under paragraph (1) by the State during each of fiscal years 1992 through 1994; and

“(B) be eligible to receive funds under paragraph (2), within the limitations in section 6(d)(4)(K).”.

(c) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—Section 17 of the Act (7 U.S.C. 2026), as amended by section 1062(c)(2), is amended by adding at the end the following:

“(1) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—The Secretary may conduct research on the effects and costs of a State program carried out under section 27.”.

**SEC. 1064. A STUDY OF THE USE OF FOOD STAMPS TO PURCHASE VITAMINS AND MINERALS.**

The Secretary of Agriculture shall, in consultation with the National Academy of Sciences and the Center for Disease Control and Prevention, conduct a study of the use of food stamps to purchase vitamins and minerals. The study shall include an analysis of scientific findings on the efficacy of and need for vitamins and minerals, including the adequacy of vitamin and mineral intake in low income populations, as shown by existing research and surveys, and the potential value of nutritional supplements in filling nutrient gaps that may exist in the population as a whole or in vulnerable subgroups in the U.S. population; the impact of nutritional improvements (including vitamin or mineral supplementation) on health status and health care costs for women of childbearing age, pregnant or lactating women, and the elderly; the cost of vitamin and mineral supplements commercially available; the purchasing habits of low income populations with regard to vitamins and minerals; the impact on the food purchases of low income households; and the economic impact on agricultural commodities. The Secretary shall report the results of the study to the Committee on Agriculture of the U.S. House of Representatives not later than December 15, 1996.”.

**SEC. 1065. INVESTIGATIONS.**

Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)) is amended by adding at the end the following:

“Regulations issued pursuant to this Act shall provide criteria for the finding of violations and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence which may include, but is not limited to, facts established

through on-site investigations, inconsistent redemption data or evidence obtained through transaction reports under electronic benefit transfer systems.”.

**SEC. 1066. FOOD STAMP ELIGIBILITY.**

Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) is amended by striking the third sentence and inserting the following:

“The State agency shall, at its option, consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or such income, less a pro rata share, and the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which such individual is a member.”.

**SEC. 1067. REPORT BY THE SECRETARY.**

The Secretary of Agriculture may report to the Committee on Agriculture of the House of Representatives, not later than January 1, 2000, on the effect of the food stamp reforms in the Welfare and Medicaid Reform Act of 1996 and the ability of State and local governments to deal with people in poverty. The report must answer the question: “Did people become more personally responsible and were work opportunities provided such that poverty in America is better managed?”.

**SEC. 1068. DEFICIT REDUCTION.**

It is the sense of the Committee on Agriculture of the House of Representatives that reductions in outlays resulting from this title shall not be taken into account for purposes of section 552 of the Balanced Budget and Emergency Deficit Control Act of 1985.

## **Subtitle B—Commodity Distribution Programs**

**SEC. 1071. EMERGENCY FOOD ASSISTANCE PROGRAM.**

(a) DEFINITIONS.—Section 201A of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended to read as follows:

**“SEC. 201A. DEFINITIONS.**

“In this Act:

“(1) ADDITIONAL COMMODITIES.—The term ‘additional commodities’ means commodities made available under section 214 in addition to the commodities made available under sections 202 and 203D.

“(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term ‘average monthly number of unemployed persons’ means the average monthly number of unemployed persons in each State in the most recent fiscal year for which information concerning the number of unemployed persons is available, as determined by the Bureau of Labor Statistics of the Department of Labor.

“(3) ELIGIBLE RECIPIENT AGENCY.—The term ‘eligible recipient agency’ means a public or nonprofit organization—

“(A) that administers—

“(i) an emergency feeding organization;

“(ii) a charitable institution (including a hospital and a retirement home, but excluding a penal institution) to the extent that the institution serves needy persons;

“(iii) a summer camp for children, or a child nutrition program providing food service;

“(iv) a nutrition project operating under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), including a project that operates a congregate nutrition site and a project that provides home-delivered meals; or

“(v) a disaster relief program;

“(B) that has been designated by the appropriate State agency, or by the Secretary; and

“(C) that has been approved by the Secretary for participation in the program established under this Act.

“(4) EMERGENCY FEEDING ORGANIZATION.—The term ‘emergency feeding organization’ means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

“(5) FOOD BANK.—The term ‘food bank’ means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

“(6) FOOD PANTRY.—The term ‘food pantry’ means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

“(7) POVERTY LINE.—The term ‘poverty line’ has the same meaning given the term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

“(8) SOUP KITCHEN.—The term ‘soup kitchen’ means a public or charitable institution that, as an integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

“(9) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term ‘total value of additional commodities’ means the actual cost of all additional commodities made available under section 214 that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

“(10) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term ‘value of additional commodities allocated to each State’ means the actual cost of additional commodities made available under section 214 and allocated to



each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).”.

(b) STATE PLAN.—Section 202A of the Act (7 U.S.C. 612c note) is amended to read as follows:

**“SEC. 202A. STATE PLAN.**

“(a) IN GENERAL.—To receive commodities under this Act, a State shall submit a plan of operation and administration every 4 years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

“(b) REQUIREMENTS.—Each plan shall—

“(1) designate the State agency responsible for distributing the commodities received under this Act;

“(2) set forth a plan of operation and administration to expeditiously distribute commodities under this Act;

“(3) set forth the standards of eligibility for recipient agencies; and

“(4) set forth the standards of eligibility for individual or household recipients of commodities, which shall require—

“(A) individuals or households to be comprised of needy persons; and

“(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of applying for assistance.

“(c) STATE ADVISORY BOARD.—The Secretary shall encourage each State receiving commodities under this Act to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this Act in the State.”.

(c) AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNDS.—Section 204(a)(1) of the Act (7 U.S.C. 612c note) is amended—

(1) in the first sentence by striking “for State and local” and all that follows through “under this title” and inserting “to pay for the direct and indirect administrative costs of the State related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this Act and commodities secured from other sources”; and

(2) by striking the fourth sentence.

(d) DELIVERY OF COMMODITIES.—Section 214 of the Act (7 U.S.C. 612c note) is amended—

(1) by striking subsections (a) through (e) and (j);

(2) by redesignating subsections (f) through (i) as subsections (a) through (d), respectively;

(3) in subsection (b), as redesignated by paragraph (2)—

(A) in the first sentence, by striking “subsection (f) or subsection (j) if applicable,” and inserting “subsection (a)”; and

(B) in the second sentence, by striking “subsection (f)” and inserting “subsection (a)”; and

(4) by striking subsection (c), as redesignated by paragraph

(2), and inserting the following:

“(c) ADMINISTRATION.—

“(1) IN GENERAL.—Commodities made available for each fiscal year under this section shall be delivered at reasonable intervals to States based on the grants calculated under subsection (a), or reallocated under subsection (b), before December 31 of the following fiscal year.

“(2) ENTITLEMENT.—Each State shall be entitled to receive the value of additional commodities determined under subsection (a).”; and

(5) in subsection (d), as redesignated by paragraph (2), by striking “or reduce” and all that follows through “each fiscal year”.

(e) TECHNICAL AMENDMENTS.—The Act (7 U.S.C. 612c note) is amended—

(1) in the first sentence of section 203B(a), by striking “203 and 203A of this Act” and inserting “203A”;

(2) in section 204(a), by striking “title” each place it appears and inserting “Act”;

(3) in the first sentence of section 210(e), by striking “(except as otherwise provided for in section 214(j))”; and

(4) by striking section 212.

(f) REPORT ON EFAP.—Section 1571 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 612c note) is repealed.

(g) AVAILABILITY OF COMMODITIES UNDER THE FOOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by sections 1062 and 1063, is amended by adding at the end the following:

**“SEC. 28. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.**

“(a) PURCHASE OF COMMODITIES.—From amounts appropriated under this Act, for each of fiscal years 1997 through 2002, the Secretary shall purchase \$300,000,000 of a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled ‘An Act to amend the Agricultural Adjustment Act, and for other purposes’, approved August 24, 1935 (7 U.S.C. 612c), and distribute the commodities to States for distribution in accordance with section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note).

“(b) BASIS FOR COMMODITY PURCHASES.—In purchasing commodities under subsection (a), the Secretary shall, to the extent practicable and appropriate, make purchases based on—

“(1) agricultural market conditions;

“(2) preferences and needs of States and distributing agencies; and

“(3) preferences of recipients.”.

(h) EFFECTIVE DATE.—The amendments made by subsection (d) shall become effective on October 1, 1996.

**SEC. 1072. FOOD BANK DEMONSTRATION PROJECT.**

Section 3 of the Charitable Assistance and Food Bank Act of 1987 (Public Law 100–232; 7 U.S.C. 612c note) is repealed.

**SEC. 1073. HUNGER PREVENTION PROGRAMS.**

The Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note) is amended—

- (1) by striking section 110;
- (2) by striking subtitle C of title II; and
- (3) by striking section 502.

**SEC. 1074. REPORT ON ENTITLEMENT COMMODITY PROCESSING.**

Section 1773 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 612c note) is amended by striking subsection (f).

## **Subtitle C—Electronic Benefit Transfer Systems**

**SEC. 1091. 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.”.

## TITLE I—COMMITTEE ON AGRICULTURE

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON AGRICULTURE,  
*Washington, DC, June 13, 1996.*

Hon. JOHN KASICH,  
*Chairman, Committee on the Budget, Cannon House Office Building, Washington, DC.*

DEAR CHAIRMAN KASICH: I am transmitting herewith the results of the Committee on Agriculture's consideration of recommendations with respect to the reconciliation bill for fiscal year 1997, provided for under H.Con.Res. 178, the Concurrent Resolution on the Budget—Fiscal Year 1997.

The instructions to this committee contained in H.Con.Res. 178, section 201(b)(1) from the Budget Committee (H. Rept. 104-612) related to "changes in laws within its [the Committee on Agriculture's] jurisdiction that provide direct spending," especially the Food Stamp Act of 1977 and commodity distribution programs and the enclosed recommendations comply with those instructions.

A considerable number of hearings were held in 1995 and 1996 with respect to welfare reform, and more particularly with respect to food stamp and commodity distribution program reforms within the jurisdiction of this committee. There were also innumerable discussions, briefings, et cetera among the members of the committee, representatives the U.S. Department of Agriculture, groups representing food stamp recipients, representatives of the National Governors Conference, retailers of food, religious and other charitable institutions, and other groups with an interest in the food stamp and commodity distribution programs.

After H.R. 4, the "Personal Responsibility Act of 1995" was vetoed by the President January 9, 1996, work commenced on what was to become H.R. 3507, the "Personal Responsibility and Work Opportunity Act." Title X and related food stamp and commodity distribution program provisions of H.R. 3507 are essentially the same as they were in H.R. 4 approved by the House of Representatives on December 21, 1995, by a vote of 245 to 178—with one significant exception. The food stamp funding cap is eliminated in these recommendations as a concession to, and at the request of, the National Governor's Conference, the Clinton administration and the Secretary of Agriculture.

The committee's recommendations contain reforms that meet its instructions set forth in H.Con.Res. 178 and in addition represent sound food stamp policy. The recommendations with respect to the reform of the Food Stamp Program retain the program as a Federal safety net; permit States to harmonize their assistance to families with dependent children (AFDC) and Food Stamp Programs; end all automatic spending increases, except for annual increase in food benefits; require able-bodied persons without dependents to work,

and in addition there are increased penalties for trafficking and fraud.

The Staff of the Committee on Agriculture has reviewed the text of H.R. 3507 and has worked in cooperation with the other committee of jurisdiction in drafting language contained in H.R. 3507 as it relates to provisions within this committee's jurisdiction. The following provisions of H.R. 3507 have been identified as within the Committee on Agriculture's jurisdiction:

#### TITLE I—BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

Food stamp recipients who receive cash benefits under a program established by the State under the Temporary Assistance for Needy Families Block Grant (TANF) established in section 103 may be issued food stamp benefits in accordance with the rules and procedures established by the State under TANF.

Food stamp recipients who participate in the program established by the State under TANF will be required to meet the work requirements of the program established by the State under TANF.

#### TITLE II—SUPPLEMENTARY SECURITY INCOME

To the extent that the changes in this title affect eligibility of individuals for Supplemental Security Income, it affects the categorical eligibility of such individuals for the Food Stamp Program.

#### TITLE III—CHILD SUPPORT

To the extent that provisions relating to the establishment of paternity affect the eligibility of persons receiving benefits under the program established by the State under TANF, food stamp recipients TANF could be affected.

#### TITLE IV—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

Section 401 prohibits illegal aliens from receiving any Federal means-tested benefits, including food stamps.

Section 403 prohibits legal aliens, with certain exceptions, from receiving food stamps;

#### TITLE IX—CHILD NUTRITION PROGRAMS

To the extent that provisions relating to providing commodities under the Child Nutrition Programs could be affected.

#### TITLE XI—MISCELLANEOUS PROVISIONS

Section 1105 allows States to consider the income and resources of an alien ineligible for food stamps when determining the eligibility of a household for food stamps.

Section 1110 exempts State and local governments from liability under the Electronic Fund Transfer Act as it relates to the operation of electronic benefits transfer systems established by a State to issue benefits under the Food Stamp Program or any other programs.

The Committee on Agriculture preserves its jurisdictional prerogatives as to such other provisions as further examination may disclose to be within its jurisdiction.

During the markup of these recommendations, the ranking minority member, Congressman E (Kika) de la Garza, offered a substitute amendment that was for the most part the administration's food stamp proposal (not introduced in the House as a bill and S. 1841 in the Senate). A comparison of Mr. de la Garza's substitute with title X, et cetera, of H.R. 3507 reflects that approximately 55 percent of the number of food stamp reforms in H.R. 3507 are identical to those in the substitute and 72 percent of the food stamp reforms in H.R. 3507 are identical or similar to those in the substitute. The CBO preliminary cost estimate for reductions in food stamp and related spending for the substitute is \$18.4 billion whereas it is \$23 billion for those in H.R. 3507.

Several other amendments were offered during markup, some of which were adopted, others withdrawn, and several failed adoption.

The committee's markup of H.R. 3507 commenced June 11 and was completed at 1:30 p.m., June 13, 1996.

I am enclosing a hard copy of the committee's recommendations on title X and related provisions of H.R. 3507 that achieve the budget reductions as contained in the instructions contained in H.Con.Res. 178 and as requested in your letter of June 12, 1996. There is also enclosed a hard copy of the Section-by-Section Analysis of the recommendations, as well as a Word Perfect 6.0 disk thereof. Final Congressional Budget Office cost estimates are not yet available and will be forwarded upon receipt but no later than June 17th. Minority views, if any; a hard copy of the Ramseyer; and the remainder of the contents of the report filed pursuant to Rule XI of the Rules of the House, including the Brief Explanation, Committee Consideration, the Purpose and Need, et cetera for the committee's recommendations will also be forwarded when available, but not later than Monday, June 17th.

Sincerely,

PAT ROBERTS, *Chairman.*

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#### BRIEF EXPLANATION

The Food Stamp Reform and Commodity Distribution Act of 1996, as amended by the House Committee on Agriculture, is designed to reform and simplify the Food Stamp Program and to improve the Commodity Distribution Programs of the Department of Agriculture, and for other purposes.

## SUBTITLE A—FOOD STAMP PROGRAM

- (1) reauthorizes and reforms the Food Stamp Program;
- (2) allows States to harmonize Food Stamp Program rules with those of the State Aid to Families with Dependent Children program for those receiving benefits from both programs;
- (3) provides for an annual increase in food stamp benefits, based on 100 percent of the thrifty food plan;
- (4) keeps certain income deductions at fiscal year 1996 levels;
- (5) keeps the threshold (\$4,600) above which the fair market value of vehicles is counted as an asset in determining food stamp eligibility at the fiscal year 1996 level;
- (6) requires able-bodied individuals between the ages of 18 and 50, with no dependents, to work at least 20 hours a week or participate in a State program for 4 months out of every 12 month period in order to continue to receive food stamps;
- (7) allows States to use food stamps in work supplementation or support programs where participants have the opportunity to achieve practical work experience;
- (8) increases penalties for trafficking and fraud;
- (9) provides that the same penalty for individuals failing to comply with the rules of a State welfare program would apply to food stamps;
- (10) encourages States to implement electronic benefit transfer (EBT) systems;
- (11) provides States with the option to operate the Food Stamp Program under a block grant if EBT operates statewide, or if the rate of error is reduced to acceptable levels, or if a State pays that part of the food stamp errors over acceptable levels.

## SUBTITLE B—COMMODITY DISTRIBUTION PROGRAMS

- (1) consolidates USDA commodity distribution programs into one consolidated program, the emergency food assistance program (TEFAP);
- (2) provides \$300 million annually, beginning in fiscal year 1997, to purchase, process, store, and distribute commodities;
- (3) establishes guidelines for allocation of commodities among States, supplementation of commodities, and eligibility standards.
- (4) requires the Secretary of Agriculture to take precautions to ensure that commodities made available do not displace commercial sales.

## SUBTITLE C—ELECTRONIC BENEFIT TRANSFER SYSTEMS

- (1) Exempts EBT systems that provide for distribution of means-tested benefits in States from the Regulation E requirements.

## PURPOSE AND NEED

## A. REFORM OF THE FOOD STAMP PROGRAM

*Food Stamp Program*

The Food Stamp Program began as pilot projects in 1961, by Presidential Executive Order under the authority to spend funds in order to support agriculture. In 1964, the administration proposed and Congress passed the Food Stamp Act. Eligibility standards were set by States, cities, and counties and they could choose to operate a Food Stamp Program or a food distribution program. As is the case now, the benefits were paid by the Federal Government. In 1971, uniform, national eligibility standards were set by Congress and the food stamp benefit was adjusted to reflect increases due to inflation. By 1975, amendments to the Food Stamp Act were adopted requiring that if the Food Stamp Program was in operation in any place in a State, it must be offered statewide. By this time the food distribution program was all but phased out.

In 1979, the Food Stamp Act of 1977 took effect, replacing the 1964 Act. The purchase requirement, through which participants had to pay a portion of their income, representing the expected contribution to their food costs, in order to receive a larger amount of food stamps, was eliminated. Because this action was determined to increase participation in the Food Stamp Program, Congress coupled this with restrictions on eligibility and benefits. The amount that could be spent on the Food Stamp Program was specifically limited through authorization ceilings. Nevertheless, the costs of the Food Stamp Program grew considerably. Congress acted to limit the growth through annual, rather than semi-annual inflation adjustments and established fiscal penalties for States with high rates of error. In 1981, the Food Stamp Program again was changed. Inflation adjustments were limited and the income eligibility standard was set at 130 percent of the poverty level. The growth of the program was slowed.

In 1984 and 1985, previous limitations were restored and benefits were increased. Further, in 1988, a 3 percent addition to the maximum food stamp benefit was enacted and benefits were further increased. Since that time the costs of the Food Stamp Program have continued to grow, due both to changes in the law, specifically the Omnibus Budget Reconciliation Act of 1993, and as a result of the automatic adjustments in several of the food stamp deductions and in the thrifty food plan.

*Food Stamp Program costs*

Year	Spending (in billions)	Average monthly participation (in millions)
1984 .....	\$12.4	22.4
1985 .....	12.5	21.4
1986 .....	12.5	20.9
1987 .....	12.5	20.6
1988 .....	13.2	20.0
1989 .....	13.8	20.2
1990 .....	16.4	21.5
1991 .....	19.7	24.1
1992 .....	23.5	26.9



Year	Spending (in billions)	Average monthly participation (in millions)
1993 .....	24.7	28.4
1994 .....	25.6	28.9
1995 .....	25.6	28.0
1996 <sup>1</sup> .....	26.4	27.5

<sup>1</sup> Estimate.

Source: U.S. Department of Agriculture (includes benefits, State administrative costs, and other program costs for the Food Stamp Program and nutrition assistance to Puerto Rico and the Northern Marianas).

### *Limiting automatic increases*

The committee believes it is time to limit the automatic increases built into the Food Stamp Program. Therefore, the committee has stopped the automatic indexing of the standard deduction, the excess shelter deduction, and the homeless shelter allowance. The committee has provided for an annual increase in the thrifty food plan, the basis of food stamp benefits, based on 100 percent of the thrifty food plan, rather than the 103 percent of the thrifty food plan now in place.

Basic food stamp benefits are currently indexed each year to reflect the changes in the cost of the thrifty food plan. The annual increase in the thrifty food plan will continue to be automatically indexed, and will be set at 100 percent of the thrifty food plan.

The food stamp standard deduction (\$134 per month) will continue at the fiscal year 1996 level. The food stamp excess shelter deduction (\$247 per month) will continue at the fiscal year 1996 level. The food stamp homeless shelter deduction, now set by regulation at \$143 per month, will continue at the fiscal year 1996 level.

The standard deduction was introduced in the 1977 Food Stamp Act and it was to be adjusted based on increases in the Consumer Price Index for nonfood items. It was established to take the place of itemized deductions. The current excess shelter deduction was also introduced in the 1977 Food Stamp Act (the earlier program included a shelter deduction that was more generous than that included in the 1977 Act). The deduction provides flexibility for families subject to varying weather conditions and for increased rents. Shelter expenses, including utilities, to the extent they exceed 50 percent of a family's net income, after all other deductions, can be deducted as a shelter cost, up to a maximum. The 1993 Budget Reconciliation Act increased this deduction and eliminated the ceiling after fiscal year 1996.

Other deductions that are available to food stamp families include a deduction of 20 percent of earnings in recognition of taxes and work related expenses; dependent care expenses related to work or training up to \$200 for children under the age of 2 years and \$175 per month for all other dependents; medical expense deduction for elderly or disabled food stamp participants, to the extent medical expenses exceed \$35 per month, per person; and for the elderly and disabled an unlimited excess shelter expenses deduction is allowed. These deductions are not changed in the committee bill.

### *Vehicle allowance*

The fair market value of vehicles is counted as an asset in determining food stamp eligibility, to the extent the value exceeds \$4,600 (total assets cannot exceed \$2,000 or \$3,000 for elderly persons). The \$4,600 threshold is scheduled to rise to \$5,000 in October 1996, and then be indexed for inflation. Also, the value of vehicles used to transport a food stamp household's fuel or water, if that is the primary source of fuel or water, is not counted in determining the total assets of a household. The October 1996, increase, and the indexing of the threshold are repealed.

The Omnibus Budget Reconciliation Act of 1993 expanded and indexed the fair market value of vehicles that can be owned by food stamp participants. The committee believes this is another example of indexing in the Food Stamp Program that can result in uncontrolled cost escalation.

Current food stamp law provides that certain vehicles are not counted at all in calculating eligibility for food stamp benefits. These vehicles include those used to produce income; necessary for long distance travel for migrant and seasonal workers; used for subsistence hunting or fishing; or needed for a physically disabled person. The fair market value of other vehicles is calculated and to the extent that value exceeds \$4,600, the amount over \$4,600 is attributed toward the resource limit of \$2,000. Therefore a family could have a vehicle with a fair market value of \$6,600, if there are no other liquid assets, and still retain eligibility for food stamps. Additionally, if a family has more than one vehicle, each valued under \$4,600, eligibility for food stamps will not be affected.

### *Simplified Food Stamp Program*

The committee has determined that the Food Stamp Program will remain at the Federal level. Reform of the Aid to Families with Dependent Children (AFDC) program and other welfare programs will constitute significant changes in the provision of welfare. Until States have completed the transition to the reformed programs, food stamps should remain a Federal program, reformed, but still available to persons in need of food.

The committee believes it is essential to provide States with the ability to harmonize their new welfare program with the Food Stamp Program and has therefore provided States with considerable latitude to accomplish this task. Over the past several years many efforts have been made to allow States this option. Demonstration projects have been authorized, with some more successful than others. The 1981 Food Stamp and Commodity Distribution Amendments and the 1990 farm bill authorized demonstration projects to test various forms of a simplified process to determine eligibility and benefits for AFDC and food stamps.

The 1981 Simplified Application Demonstration Projects tested how different levels of standardization and simplification affect benefits, administrative costs, and errors in the Food Stamp Program. The demonstration projects centered on food stamp participants who also receive AFDC, Supplemental Security Income (SSI), and/or Medicaid. These simplified programs operated in Illinois, California, and Oklahoma. In Illinois, program simplification entailed assigning food stamp benefits to AFDC households based on

standard benefit tables under which all households within certain categories receive the same food stamp allotment. Three other demonstration sites adopted more limited forms of simplification. San Diego and Fresno Counties in California used AFDC income definitions for the Food Stamp Program. Oklahoma standardized the gross income level used to calculate food stamp benefits for households at the maximum AFDC payment for the households plus the household's "\$30 plus  $\frac{1}{3}$ " AFDC earned income disregard. The demonstration projects authorized by the 1990 farm bill were not implemented. Three other States have implemented projects with similar characteristics, Alabama, Minnesota, and Washington.

The 1990 farm bill also established a Welfare Simplification and Coordination Advisory Committee. The members of that advisory committee were experts in the fields of public assistance programs, including food stamps, AFDC, medical assistance and housing programs and had demonstrated expertise in evaluating the operation of these programs and the interaction of these programs with one another. Representatives of State and local administrators and recipients were included as well. In June 1993, the advisory committee issued its report and recommended the replacement of the "numerous programs that currently serve the needy with one, family-focused, client-oriented, comprehensive program."

The committee believes it is time to provide States with the option of harmonizing their new AFDC program with the Food Stamp Program for those participants receiving assistance from both programs. The Food Stamp Program is reformed to make it possible for States to harmonize the eligibility and benefit determination standards for the new program and food stamps. States will have the option to establish one set of benefit rules for families applying for the new program and for food stamps. Penalties applied by the State program rules for work and program compliance will not result in an increase in food stamp benefits. States will be able to choose to apply the same penalties to food stamp benefits as are applied to other State welfare programs work and compliance requirements.

States will be able to define and count income and expenses for food stamp benefit purposes in the same way they do in their State program. They will be able to simplify rules, provide standard benefits varied by household size, area of residence, or other factors. The same procedural rules can be used for the State program and for food stamps (reporting of income, changes in household circumstances, verification standards) as long as a State provides notice of changes in benefits and a fair hearing process.

The committee intends that USDA can refuse to approve a State food stamp simplification plan only if it is judged to increase Federal food stamp costs or fails to include adequate notice and fair hearing rights and certain other provisions of current food stamp law.

The Federal Government operates a multitude of assistance programs which are under the jurisdiction of different Federal agencies and in some cases different State and local agencies. For major income and food assistance programs, this lack of coordination and resolution of the differences among programs is troublesome. The committee considers the simplified Food Stamp Program a first

step in the process of coordination. Further steps will be considered as the States continue the process of implementing reform of the overall welfare system.

*Work requirements and program options in the Food Stamp Program*

The committee believes that able-bodied participants with no dependents, between the ages of 18 and 50 years, must be required work or be in a training program. These persons will be ineligible for food stamps after 4 months, out of a 12 month period, unless they are employed at least 20 hours per week in a job; are in a training program for at least 20 hours per week, or participate in workfare.

The committee intends that, for 20 hours per week, able-bodied persons between the ages of 18 and 50, with no dependents, should be working; be in a program under the Job Training Partnership Act; be in a program under the Trade Adjustment Act; or be in a program of employment and training that meets the standards set by the Governor. These persons may also meet the work requirement by participating in workfare programs.

The committee understands that there may be instances in which high unemployment rates in all or part of a State or other specified circumstances may limit the jobs available for able-bodied food stamp participants between 18 and 50 years with no dependents. Therefore the Secretary, upon request from a State, is provided with the authority to waive job requirements in these circumstances or if unemployment rates are above 10 percent. The committee intends that the Secretary, in exercising this authority, will provide the Agriculture Committees of the House of Representatives and the Senate with the rationale for such a decision.

The committee has provided States with new money (food stamp benefits) to give employers who would, in turn, pay it, in lieu of food coupons, to food stamp recipients to participate in work supplementation or support programs. Such programs include those in which public assistance benefits, including food stamps, are provided to employers who hire public assistance recipients. The benefits pay part of the wages. These programs must meet standards set by the Secretary. Several States, including Oregon and Mississippi, have indicated interest in these types of work programs. The committee expects that the Secretary will keep the committee informed at regular intervals as to the progress of these work supplementation or support programs.

*Food Stamp Program integrity*

The incidence of fraud and the resulting losses to the Food Stamp Program are steadily increasing as the number of Food Stamp Program participants and the total value of benefits received increase. In fiscal year 1996, it is estimated that the Food Stamp Program will cost over \$26 billion and food stamp benefits will be issued to a monthly average of more than 27 million recipients.

Fraud occurs in the Food Stamp Program in three different ways. The first method of fraud is in the certification and issuance of benefits. USDA estimates that \$1.8 billion in food stamp benefits were

overissued to recipients in fiscal year 1994. Of this total, about \$414 million was issued to recipients as a result of fraud. The rest was the result of unintentional recipient error and caseworker error.

Recipient fraud varies from the intentional under-reporting of income or inflation of household expenses to elaborate schemes involving the creation of false documents and fictitious identities. The committee heard testimony describing a recent incident in the State of Washington in which two State welfare caseworkers and a refugee counselor were engaged in a scheme to fraudulently obtain social security and food stamp benefits for at least 300 refugees. The false food stamp applications were prompted by the refugee counselor and the caseworkers, who took kickbacks from the refugees in return for their being certified to receive benefits.

The second method of fraud is street trafficking in food stamp coupons. Street trafficking involves a person who sells, purchases, or barter food stamps for cash or other nonfood items. In many communities, food stamps have become a second currency. The committee heard reports and witnessed undercover video footage of food stamps being traded for cash, drugs, guns, and a stolen car.

The committee also heard reports that it was not uncommon for food stamp traffickers to be a part of other criminal enterprises, such as theft and fencing rings or drug trafficking operations. In Smithfield, North Carolina, OIG agents and other law enforcement officers successfully penetrated an organized drug trafficking ring that was transporting large quantities of "crack" cocaine from Florida to Smithfield. During the investigation, OIG documented members of the gang exchanging cocaine on numerous occasions for over \$23,000 in food stamps. In Los Angeles, an undercover OIG agent contacted a street trafficker who agreed to buy \$30,000 in food stamps from the agent. A subsequent search of the trafficker's residence and automobile uncovered an additional \$82,000 in food stamps that had been improperly acquired from recipients.

The third method of fraud is retail food store and wholesale food concern trafficking. USDA is responsible for authorizing retail food stores and wholesale food concerns to redeem food stamps. Currently, over 207,000 retail food stores and wholesale food concerns are authorized to redeem food stamps. Each year, about 30,000 new entities apply for authorization. Also, each year about 30,000 entities are disqualified or become ineligible to redeem food stamps. Approximately 77 percent of all food stamps are redeemed by supermarkets which comprise only about 15 percent of all authorized entities. USDA has found that most retail trafficking occurs in smaller food stores and in other retail entities whose business is not primarily food sales. During fiscal year 1994, USDA compliance investigators reviewed 4,300 entities authorized to redeem food stamps. Of these entities, 1,300 were found to have committed violations serious enough to warrant sanctions, including 902 entities which were trafficking in food stamps.

While neither USDA, OIG, nor GAO can provide an estimate with any certainty as to the amount of food stamp trafficking that occurs each year, trafficking in food stamps is believed by OIG to exceed \$1 billion each year. Clearly, the number of trafficking investigations involving multi-million dollar food stamp trafficking

operations and the organization with which such operations are operating is on the rise. The committee heard testimony of a case in Brooklyn, New York, in which investigators found an individual who had obtained authorization to redeem food stamps from USDA for a fictitious retail store. In a 22-month period, this fictitious store illegally accepted more than \$40 million in food stamps from over 600 restaurants, retail stores, and other businesses. In 1 month alone, this fictitious store illegally redeemed over \$4.7 million in food stamps, nearly 5 percent of all food stamps redeemed that month in New York City.

Electronic benefit transfer systems (EBT) systems have the potential to reduce but not eliminate trafficking and fraud in the Food Stamp Program. EBT has the potential to severely curtail street trafficking because such systems can only be used in conjunction with an authorized point-of-sale terminal at an authorized retail food store or wholesale food concern. EBT, however, is still susceptible to trafficking and fraud by retail food stores and wholesale food concerns. The committee heard testimony from OIG detailing a trafficking operation using EBT in Baltimore, Maryland, in which two small retailers at an indoor market trafficked over \$1.2 million in food stamp benefits. EBT data, however, assists investigators in detecting traffickers and provides evidence assisting in their prosecution. Additionally, EBT provides investigators with detailed records identifying recipients who traffic in food stamps and assists in prosecuting or disqualifying these individuals.

To combat recipient fraud, the committee believes that the disqualification periods for recipients for intentional program violations should be increased from 6 months to 1 year for the first offense and increased from 1 year to 2 years for the second offense. To combat recipient trafficking, the committee believes that recipients who are convicted of trafficking food stamps with a value of over \$500 should be permanently disqualified from the program. Additionally, the committee believes that States should be required to participate in the Federal Tax Refund Offset Program to collect outstanding food stamp claims. Also, existing authority for States to collect overissued food stamp benefits is greatly expanded.

To combat trafficking by retail food stores and wholesale food concerns, the committee believes that USDA, or an agent of USDA, should visit each retail food store or wholesale food concern, or may elicit the assistance of State or local agency before granting authorization to redeem food stamps. The committee believes that initial authorization should be for a limited period and that retail food stores and wholesale food concerns should be prohibited from submitting a new application for 6 months after a denial of an application for authorization to redeem food stamps. The committee believes that where an authorized retail food store or wholesale food concern is permanently disqualified, such disqualification should be effective from the date of receipt of the notice of disqualification pending any administrative or judicial review. The committee also believes that a retail food store or wholesale food concern disqualified from the Special Supplemental Food Program for Women, Infants, and Children also should be disqualified from the Food Stamp Program during such disqualifications. Finally, the committee believes that all property used to traffic in food stamps and pro-

ceeds traceable to any property used to traffic in food stamps should be subject to criminal forfeiture.

#### B. COMMODITY DISTRIBUTION PROGRAMS

Two commodity distribution programs are consolidated to provide for greater program efficiency and the amount of money provided for the new consolidated program is increased so that food will continue to be provided to needy families. Commodity distribution programs provide help directly to families at the local level through churches, soup kitchens and food banks. Other community organizations that provide help through the donation of food include battered women's shelters, homeless shelters and food pantries. The food provided through commodity distribution programs is often matched and exceeded by contributions from private sector sources, such as grocery stores, food processors and manufacturers, and farmers.

USDA currently operates several commodity distribution programs, two of which are consolidated into one program, thereby establishing one administrative structure. The essential nature of the programs is maintained. Persons and organizations operating food banks, soup kitchens, and other similar operations will continue to receive Federal commodities and administrative funds. The purpose of the consolidated program is to provide wholesome food for needy people and to assist farmers through the donation of federally purchased and donated commodities. This program will provide wholesome, nutritious food to needy families in temporary need due to emergencies or natural disasters or as a supplement to other programs.

The following programs are consolidated to provide food for distribution to needy individuals and families:

The Emergency Food Assistance Program (TEFAP)—State and local emergency feeding organizations receive federally donated commodities (some purchased and some surplus commodities) and administrative funding. Assistance varies with the availability of commodities but all States operate TEFAP. TEFAP began in December 1981. Congress authorized the program in 1983 and it is currently authorized through 2002.

The Soup Kitchen and Food Bank Program.—This program provides for the purchase and distribution of commodities to soup kitchens and food banks, with priority given to those organizations providing meals for homeless people. It was initiated in the 1988 Hunger Prevention Act. The 1990 Farm Bill reauthorized this program at an authorized level of \$32 million for 1991 and \$40 million for the following years.

Other programs providing commodity assistance to needy persons and families include:

Assistance for summer camps and charitable institutions.—The Secretary of Agriculture has the discretion to provide commodities to charitable institutions and summer camps. Surplus commodities are provided when no other outlet is available. The types of organizations receiving commodities are churches, orphanages, correctional institutions, homes for elderly and hospitals. Only nonprofit, tax-exempt organizations and correctional facilities that offer rehabilitation services are eligible.

Commodity Supplemental Food Program (CSFP).—CSFP began in 1968 as a program for supplemental food for women, infants, and children. In 1981 it was expanded to include elderly persons. Foods are purchased directly by USDA and distributed through State and local agencies. Approximately 400,000 people are provided benefits, half elderly and half women, infants and children. This program operates in 20 States with a total of 60 CSFP sites.

Commodity distribution programs serve several purposes. They provide food assistance directly to children, the elderly, the needy, the homeless and women and children at nutrition risk. They help farmers by providing the bounty of nutritious food to others in need. They also enable the Federal Government to dispose of commodity holdings that might otherwise be wasted.

The committee believes that commodity distribution programs are essential and are the first line of defense so that communities can help families in immediate need without the bureaucratic red tape required by other food assistance programs. Therefore the committee requires that the Secretary annually purchase \$300 million of commodities to distribute through the consolidated commodity distribution program (TEFAP) beginning in fiscal year 1997.

#### C. ELECTRONIC BENEFIT TRANSFER (EBT) ENCOURAGEMENT

The committee believes that EBT systems, in which food stamp benefits are provided through a debit card system instead of coupons, is the preferred choice of delivering food benefits. The Inspector General of USDA, in his testimony of February 1, 1995, before the committee, made it clear that EBT systems, while not eliminating trafficking in food stamps, were superior to coupons and a tool that can be used in tracking down persons abusing the Food Stamp Program.

For more than 10 years USDA, at the direction of Congress, has been investigating the feasibility, cost-effectiveness, and general impact of using an electronic benefit transfer (EBT) system to issue food stamp benefits. Paper coupons are replaced and recipients use a debit-like card at the grocery store check-out. Counties in several States, including Pennsylvania, Minnesota, New Mexico, and New Jersey have implemented EBT and Maryland, Texas, Utah, and South Carolina have EBT systems statewide.

USDA has found that EBT administrative costs are lower than coupon issuance costs; that food stamp benefit loss and trafficking are reduced; grocery store costs are reduced; food stamp participants prefer EBT; and financial institutions also prefer EBT and their costs are reduced.

Law enforcement officials have spoken in favor of EBT because it provides an electronic trail of abuses in the program. Trafficking is not eliminated under an EBT system; however, incidental street trafficking is reduced considerably.

The committee bill encourages States to go forward with EBT and allows them to design their own program, under the standards of USDA.

The committee is concerned that because of the standards adopted by the Federal Reserve Board in 1994 governing its Regulation E, and which become effective in March of 1997, States are receiving conflicting messages on implementation of EBT systems for the



Food Stamp Program. The committee stresses its encouragement of the advancement of EBT systems and is concerned that the increased liability and higher administrative costs under the Federal Reserve Board's 1994 decision may retard progress. Therefore Regulation E will not apply to means-tested programs, including the Food Stamp Program.

To further encourage adoption of EBT systems, once a State has implemented EBT on a statewide basis, that State will have the option of operating a Food Stamp Program under a block grant. Food stamp EBT benefits will be redeemable only for food.

#### SECTION-BY-SECTION

##### SUBTITLE A—FOOD STAMP PROGRAM

###### *Section 1001. Short title*

This title is cited as the Food Stamp Reform and Commodity Distribution Act of 1996.

###### *Section 1011. Definition of a certification period*

Food stamp certification periods cannot exceed 12 months. States are allowed to establish certification periods of up to 24 months for households with members that are elderly or disabled. States must have at least one contact with the household every 12 months.

###### *Section 1012. Definition of coupon*

The definition of a "coupon" is revised to include authorization cards, cash, or checks issued in lieu of coupons and "access devices" for electronic benefit transfer systems. This expands the types of items to which trafficking penalties apply.

###### *Section 1013. Treatment of children living at home*

Parents and their children 21 years of age or younger living together (current law), including children who are parents living with their children and children who are married and living with their spouses, must apply for food stamps as a single household.

###### *Section 1014. Optional additional criteria for separate household determinations*

States are allowed to set criteria that prescribe when individuals living together, and otherwise would be allowed to apply for food stamps as a separate household, must apply as a single household.

###### *Section 1015. Adjustment of thrifty food plan*

The maximum monthly food stamp benefits are set at 100 percent of the cost of the thrifty food plan, effective October 1, 1996, and adjusted annually, as under existing law. The October 1, 1996, adjustment will not reduce maximum benefit levels.

###### *Section 1016. Definition of homeless individual*

Persons whose primary residence is a temporary accommodation in the home of another may only be considered homeless if the accommodation is for no more than 90 days.

*Section 1017. State option for eligibility standards*

States are allowed, as provided in other sections of this Act, to set nonuniform standards of food stamp eligibility.

*Section 1018. Earnings of students*

The earnings of an elementary/secondary student must be counted as income for food stamp purposes once the student is 20 years or older.

*Section 1019. Energy assistance*

State and local energy assistance payments will be considered as income in the Food Stamp Program. A one-time payment under a Federal or State law for the costs of weatherization or emergency repair of heating or cooling devices will not be considered as income. Benefits paid under the low income home energy assistance program (LIHEAP) and HUD utility allowances will be considered as income. Payments made by LIHEAP or any other energy assistance program counted as income, whether paid directly or indirectly, are considered an out-of-pocket expense and the household may receive a shelter expense deduction for utility costs.

*Section 1020. Deductions from income*

The standard deduction will continue at the fiscal year 1996 level (\$134/month for the 48 States and the District of Columbia, \$229 for Alaska, \$189 for Hawaii, \$269 for Guam, and \$118 for the Virgin Islands).

An earned income deduction will not be allowed for any income not reported in a timely manner (the deduction is not allowed in determining the amount of any overissued food stamp benefits) and will be denied for the public assistance portion of income earned under a work supplementation/support program.

The homeless shelter allowance is set at the October 1995 level of \$143/month. This allowance must be used in establishing homeless households' excess shelter expense deduction when they do not receive free shelter throughout the month. States may prohibit use of the allowance for households with extremely low shelter costs.

The excess shelter deduction is set at the October 1995 level (\$247/month for the 48 States and the District of Columbia, \$429 for Alaska, \$353 for Hawaii, \$300 for Guam, and \$182 for the Virgin Islands).

*Section 1021. Vehicle allowance*

The threshold above which the fair market value of a vehicle is counted as an asset for determining eligibility for the Food Stamp Program is set at \$4,600.

*Section 1022. Vendor payments for transitional housing counted as income*

Payments from regular welfare benefits made on behalf of households in transitional housing are no longer disregarded as income.

*Section 1023. Doubled penalties for violating Food Stamp Program requirements*

The disqualification penalty for the first intentional violation of program requirements is increased to 1 year. The disqualification penalty for the second intentional violation (and the first violation involving trading of a controlled substance) is increased to 2 years.

*Section 1024. Disqualification of convicted individuals*

Persons convicted of trafficking in food stamp benefits, where the benefits trafficked have a value of \$500 or more, are permanently disqualified from the Food Stamp Program.

*Section 1025. Disqualification*

This section adds to the current rules governing disqualification for violation of work and employment/training requirements. Existing provisions for disqualification (job refusal and failure to participate in an employment/training program) are expanded to make ineligible (1) individuals refusing without good cause to provide sufficient information to allow a determination of employment status or job availability; (2) all individuals who voluntarily and without good cause quit a job; and (3) individuals who voluntarily and without good cause reduce their work effort and, after the reduction, are working less than 30 hours per week.

If any individual who is the head of the household is disqualified under a work rule, the entire household, at the option of a State, will be ineligible for the lesser of the duration of the individual's ineligibility or 180 days.

New mandatory minimum work disqualification periods are set. For the first violation, individuals will be ineligible until the later of the date the work rules are fulfilled, for 1 month, or a period to be determined by the State but not to exceed 3 months. For the second violation, individuals will be ineligible until the later of the date they fulfill the work rules, for 3 months, or a period to be determined by the State but not to exceed 6 months. For the third or subsequent violation, individuals will be ineligible until the later of the date they fulfill work rules, for 6 months, or a date determined by the State, or permanently at the option of the State. The same disqualification periods apply to those failing to meet any workfare requirements.

The Secretary is responsible for determining the definition of good cause, voluntary quit, and reduction of work effort. States will determine the definition of other terms and the procedures for making compliance decisions; however, they cannot be less restrictive than a comparable definition or procedure under the State's AFDC program. States must include a description of the standards and procedures in their State plans.

*Section 1026. Caretaker exemption*

Parents or other household members with responsibility for the care of a dependent child under the age of 1 are exempt from food stamp work rules, at State option.

*Section 1027. Employment and training*

The requirements for State-operated employment/training programs are revised as follows:

- (1) work experience is added to the purpose of employment/training programs;
- (2) each component of an employment/training program must be delivered through a “statewide work-force development system,” unless it is not available locally;
- (3) States may apply all work rules to food stamp applicants, not only job search rules;
- (4) specific rules governing job search components are removed;
- (5) eliminates provisions for components related to work experience requiring that they be in public service work and use food stamp recipients’ prior training and experience;
- (6) eliminates specific Federal rules regarding States’ authority to exempt categories and individuals from employment/training rules;
- (7) eliminates the requirement to serve volunteers in employment/training programs;
- (8) eliminates the rule for “conciliation procedures” for resolution of disputes involving participation in the employment/training program;
- (9) limits funding provided by the Food Stamp Program for services to AFDC recipients to the amount used by a State in fiscal year 1995; and
- (10) eliminates Federal performance standards.

The Secretary is required to reserve, from Food Stamp Program funding, the following amounts for employment/training programs:

[In millions of dollars]

Fiscal year:	
1997 .....	79
1998 .....	81
1999 .....	84
2000 .....	86
2001 .....	88
2002 .....	90

Allocations are to be based on a reasonable formula, determined by the Secretary, giving consideration to the States’ share of the populations affected by the work requirements. Minimum State allocations are set at \$50,000.

*Section 1028. Comparable treatment for disqualification*

Individuals disqualified for failure to perform an action required under a federal, State, or local means-tested public assistance program are also disqualified from food stamps, at the State’s option. States may use AFDC rules and procedures to impose the same disqualification for food stamps. Individuals disqualified from food stamps due to failure to perform a required action under another means-tested public assistance program may apply for food stamps after the disqualification period has expired; however, a prior disqualification period under food stamp work rules must be considered in determining eligibility. States must include the guidelines

used to carry out these food stamp disqualification provisions in their State plans.

*Section 1029. Disqualification for receipt of multiple food stamp benefits*

Individuals found to have fraudulently misrepresented their place of residence or identity in order to receive multiple food stamp benefits are disqualified from the Food Stamp Program for 10 years.

*Section 1030. Disqualification of fleeing felons*

Individuals, while they are (1) fleeing to avoid prosecution or custody after a conviction for a felony (or an attempt) or (2) violating a condition of parole under Federal or State law, are disqualified from participation in the Food Stamp Program.

*Section 1031. Cooperation with child support agencies*

States are allowed to disqualify custodial parents of children under the age of 18 years who have an absent parent, unless the custodial parent cooperates with the State in establishing the child's paternity and obtaining support for the child. Cooperation is not required if the State finds there is good cause for failure to cooperate. Fees and other costs for services can not be changed.

States are allowed to disqualify putative or noncustodial parents of children under the age of 18 years if they refuse to cooperate with the State in establishing the child's paternity and providing support for the child. The Secretary of Agriculture and the Secretary of HHS will develop guidelines for what constitutes a refusal to cooperate and States will develop procedures to determine whether there is a refusal to cooperate. Fees and other costs for services can not be charged. States are required to provide safeguards to restrict the use of information collected by the State to the purposes for which it was collected.

*Section 1032. Disqualification relating to child support arrears*

States may disqualify individuals under a court child support order during any period in which the individual has an unpaid liability, unless the court is allowing delayed payments.

*Section 1033. Work requirement*

Able-bodied persons between 18 years and 50 years who have no children or are not responsible for the care of others are ineligible if, during the prior 12-month period, they received food stamps for 4 months or more while not working 20 hours per week or more; or participating in a work program (such as the Jobs Training Partnership Act, the Trade Adjustment Assistance Act, or employment and training programs operated or supervised by a State meeting standards approved by the Governor, but not including job search or job search training programs) for at least 20 hours per week, or participating in a workfare program.

The disqualification ceases to apply if, during any 30-day period, an individual works 80 hours or more; participates in and complies with a work program for at least 80 hours; or participates in a workfare program. In the subsequent 12-month period, an individ-

ual is eligible for food stamps for up to 4 months while not working for at least 20 hours per week; participating in a work program for at least 20 hours per week; or participating in a workfare program.

Upon a State request, the Secretary is allowed to waive application of this work requirement for some or all individuals in part or all of a State if the Secretary determines that the area unemployment rate is over 10 percent or if there are insufficient jobs to provide employment for those subject to this requirement. The Secretary is required to report to the Agriculture Committees on all waivers granted.

*Section 1034. Encourage electronic benefit transfer systems*

States are encouraged to implement an electronic benefit transfer (EBT) system as soon as practicable. States are required to implement EBT before October 1, 2002, unless the Secretary waives the requirement because a State faces unusual barriers to implementation. Subject to Federal standards, States are allowed to procure and implement an EBT system under terms, conditions, and designs that they consider appropriate. A requirement for Federal procurement standards is added. EBT standards must follow generally accepted standard operating rules based on commercial technology; permit interstate operation; and permit monitoring and investigations by authorized law enforcement officials.

Regulations regarding replacement of benefits under an EBT system must be similar to those in effect for a paper-based food stamp issuance system.

EBT systems must be cost neutral; include measures to maximize the security of the EBT system; and include provisions allowing EBT systems to differentiate among food items, to the extent practicable.

States may charge food stamp participants for the cost of replacing a lost or stolen EBT card and may collect the charge by reducing the participant's food stamp benefit. States may require that EBT cards contain a photograph of one or more household members. If States require such a photograph, the States must establish procedures to ensure that other appropriate members of the food stamp household and authorized representatives may use the EBT card.

The anti-tying restrictions of the Bank Holding Company Act Amendments of 1970 will apply to electronic benefit transfer (EBT) services offered by nonbanks. Banks providing EBT services are subject to the anti-tying restrictions of section 106 of the Bank Holding Company Act Amendments of 1970. Bank holding companies and their subsidiaries that are not banks also are subject to the restrictions contained in section 106 pursuant to regulations promulgated by the Federal Reserve Board. This provision extends these restrictions to nonbanks that provide EBT services.

*Section 1035. Value of minimum allotment*

The minimum monthly allotment for 1- and 2-person households continues to be set at \$10.

*Section 1036. Benefits on recertification*

Food stamp participants who do not complete all the requirements for eligibility recertification in the last month of their certification periods, but were then determined eligible after their certification periods had expired, will receive reduced benefits in the first month of their new certification periods (i.e., their benefits will be prorated to the date they met the requirements and were again judged eligible). The 1-month “grace period” to fulfill eligibility recertification requirements during which benefits would not be subject to a prorata reduction is eliminated.

*Section 1037. Optional combined allotment for expedited households*

States may provide food stamp households, applying after the 15th of the month, an allotment that is an aggregate of the initial (pro-rated) benefit and the first regular monthly allotment. This provision applies to both regular and expedited service applications.

*Section 1038. Failure to comply with other means-tested public assistance Programs*

Food stamp benefits may not be increased when benefits received through federal, State, or local means-tested public assistance programs are reduced due to a failure to perform a required action. States may also reduce the food stamp household benefit by an amount up to 25 percent. If the food stamp benefit is reduced due to a failure to perform an action required under the State’s AFDC program, the State may use the rules of that program to reduce the food stamp benefit.

*Section 1039. Allotments for households residing in centers*

States are allowed to divide monthly food stamp benefits between the participant who was a resident of a drug or alcohol treatment center and then leaves the center and the drug or alcohol treatment center. States may require residents of these centers to designate the centers as authorized representatives.

*Section 1040. Condition precedent for approval of retail food stores and wholesale food concerns*

Retail food stores and wholesale food concerns can not be approved for participation in the Food Stamp Program unless a visit is made to the store by an appropriate person. The types of stores included in this requirement will be determined by the Secretary based on factors that include size, location, and type of items sold.

*Section 1041. Authority to establish authorization periods*

The Secretary is required to establish specific time periods during which retail food stores or a wholesale food concerns’ authorization to accept and redeem food stamp benefits (or EBT) will be valid.

*Section 1042. Information for verifying eligibility for authorization*

The Secretary is allowed to require that food retailers and wholesalers seeking approval must submit relevant income and sales tax filing documents. Also, the Secretary is allowed to issue regulations

requiring food retailers and wholesalers to provide written authorization to the Secretary to verify tax filings and to obtain corroborating documentation from other sources in order to verify the accuracy of the information provided by food retailers and wholesalers.

*Section 1043. Waiting period for stores that fail to meet authorization criteria*

Retail food stores and wholesale food concerns that fail to be approved for participation in the Food Stamp Program will not be allowed to submit a new application for 6 months. The Secretary may establish longer waiting periods, including permanent disqualification, that reflect the severity of the basis for denial.

*Section 1044. Operation of food stamp offices*

The requirements for States' plans for operation of the Food Stamp Program are replaced as follows: A State must (1) establish procedures governing operation of the food stamp offices that it determines best serves households in the State, including those with special needs; (2) provide timely, accurate, and fair service to applicants and participants; (3) allow applicants to apply and participate on the same day they first contact the food stamp office during office hours; (4) consider an application filed on the day the applicant submits an application that contains the applicant's name, address, and signature; (5) require applicants to certify in writing as to the truth of information on the application; (6) stipulate that the signature of a single adult is sufficient; (7) have methods for certifying homeless households; and (8) ensure that electronic storage of information is allowed.

States may establish operating procedures that vary for local food stamp offices to reflect regional and local differences.

States may disqualify food stamp participants based on another public assistance program's rules for disqualification for failure to comply with those rules.

*Section 1045. State employee and training standards*

Existing provisions for merit system standards are retained. A technical change to reflect the current Federal agency is made.

*Section 1046. Exchange of law enforcement information*

States must make available to law enforcement officials the address, social security number, and (when available) the photograph of a food stamp recipient if the law enforcement official furnishes the recipient's name and notifies the agency that the individuals if fleeing to avoid prosecution or custody for a felony crime (or attempt); that the location or apprehension of the individual is within the official's duties; and the request is within the proper exercise of official duties. The requested information must be related to the apprehension of a felon or parolee.

*Section 1047. Expedited coupon service*

The period in which expedited food stamp benefits must be provided is increased to 7 (from 5) calendar days.



*Section 1048. Withdrawing fair hearing requests*

States may allow food stamp households to withdraw fair hearing requests either orally or in writing.

*Section 1049. Income, eligibility, and immigration status verification systems*

The use of income and eligibility and immigration status verification systems established under the Social Security Act is made optional with the States.

*Section 1050. Disqualification of retailers who intentionally submit falsified applications*

The Secretary may disqualify retail food stores or wholesale food concerns, including permanent disqualification, when the store or concern knowingly submits false information on the application.

*Section 1051. Disqualification of retailers who are disqualified under the WIC Program*

The Secretary is required to issue regulations providing criteria for disqualifying retail food stores and wholesale food concerns from participation in the Food Stamp Program once they are disqualified from the WIC program. This food stamp disqualification is not subject to food stamp rules regarding judicial or administrative review.

*Section 1052. Collection of overissuances*

Existing overissuance collection rules are replaced. States must collect any overissuance of food stamp benefits by reducing future benefits, withholding unemployment compensation, recovering from Federal pay or income tax refunds, or any other means, unless the Secretary demonstrates that all of the means are not cost effective. Benefit reductions are limited to 10 percent of the monthly benefit or \$10 per month.

States may retain 25 percent of overissuances collected (other than those caused by a State agency error).

*Section 1053. Authority to suspend stores violating program requirements pending administrative and judicial review*

Permanent disqualification of a store or wholesale food concern will be effective from the date the notice of disqualification is received. If the disqualification is reversed through administrative or judicial review, the Secretary is not liable for the value of lost sales during the disqualification period.

*Section 1054. Expanded criminal forfeiture for violations*

This section establishes criminal forfeiture rules. Courts are required, in imposing sentences on those convicted of trafficking in food stamps to order that the person forfeit property to the United States. Property subject to forfeiture includes all property used in the transaction to commit a trafficking violation. Proceeds traceable to the violation are subject to forfeiture. An owner's property interest is not subject to forfeiture if the owner establishes that the violation was committed without the owner's knowledge or consent.

The proceeds from any sale of forfeited property and any money forfeited will be used to reimburse the Justice Department, to reimburse the Agriculture Department's Office of Inspector General, to reimburse Federal or State law enforcement agencies and to be provided to the Secretary to carry out approval of stores, reauthorizations of stores and compliance activities.

*Section 1055. Limitation of Federal match*

Federal reimbursement to States for informational (outreach) activities is not available for "recruitment activities."

*Section 1056. Standards for administration*

The requirement that the Secretary establish standards for efficient and effective administration of the Food Stamp Program is eliminated.

*Section 1057. Work supplementation or support program*

States are allowed to operate a work supplementation or support program, under which public assistance benefits, including food stamps, are provided to employers who hire recipients and then are used to pay part of their wages. Work supplementation or support programs must meet standards set by the Secretary. The food stamp portion cannot be considered income for other purposes and the household of the work supplementation participants cannot receive regular food stamps while the household member is in such a work program. States must describe how food stamp participants will be moved into jobs that are not supplemented or supported within a specific time frame and the program is available for new employees only.

States must describe work supplementation or support programs in their State plans of operation.

*Section 1058. Waiver authority*

Existing waiver authority is revised and authority is provided to the Secretary to conduct pilot or experimental projects and waive the Food Stamp Act as long as projects are consistent with the goals of the program and provides food for needy families. The Secretary is permitted to conduct projects that will improve administration of the program; increase self-sufficiency of food stamp participants; test innovative welfare reform strategies; or allow greater conformity among public assistance programs.

The Secretary may not conduct additional projects that involve issuing food stamp benefits in the form of cash; substantially transfer program benefits to other public assistance programs; or conduct projects not limited to specific time periods.

*Section 1059. Response to waivers*

Not later than 60 days after receipt of a request for a waiver so that a State may conduct a demonstration project, the Secretary must either approve the request; deny the request and explain any modifications needed for approval; deny the request and explain the grounds for denial; or ask for clarification of the request. If the Secretary does not respond within 60 days, the waiver is considered approved. Denials of waiver requests and the basis for the de-

nial must be provided by the Secretary to the House and Senate Agriculture Committees.

*Section 1060. Employment Initiatives Program*

States may operate private sector employment initiatives under which food stamp benefits may be paid in cash to certain households. States are eligible to operate this initiative if not less than 50 percent of the households in the State that received food stamps in the summer of 1993 also received AFDC benefits and if the State agrees to increase benefits, at the States' expense, to compensate for State or local sales taxes on food. Households are eligible to receive cash in lieu of food stamps if an adult member selects this option and (1) has worked in a nonsubsidized job for not less than the 90 preceding days; (2) has earned not less than \$350 a month from that employment; (3) is eligible to receive AFDC (or was eligible when the cash payments were first received but is no longer eligible because of earned income); and (4) is continuing to earn not less than \$350 a month from the employment.

States operating a private sector employment initiative program for 2 years must provide a written evaluation of the impact of cash assistance to the Secretary.

*Section 1061. Reauthorization*

The Food Stamp Program is reauthorized through fiscal year 2002.

*Section 1062. Simplified Food Stamp Program*

States may elect to carry out a simplified Food Stamp Program in all or part of a State for households in which all members receive AFDC. States may operate the simplified Food Stamp Program using the rules of the States' AFDC program, the Food Stamp Program, or a combination of both programs. States must, at a minimum, comply with the following Food Stamp Program rules:

- (1) requirements governing issuance procedures;
- (2) the requirement that benefits be calculated by subtracting 30 percent of a household's income (as determined by State established, not federal, rules under the simplified program option) from the maximum food stamp benefit;
- (3) the bar against counting food stamp benefits as income or resources in other programs;
- (4) the requirements that State agencies assume responsibility for eligibility certification and issuance of benefits and keep records for inspection and audit;
- (5) the bar against discrimination by reason or race, sex, religious creed, national origin, or politics;
- (6) requirements related to submission and approval of plans of operation and administration of the Food Stamp Program on Indian reservations;
- (7) limits on the use and disclosure of information about food stamp households;
- (8) requirements for notice to and fair hearings for aggrieved households (or comparable requirements established by the State under its AFDC program);

(9) requirements for submission of reports and other information required by the Secretary;

(10) the requirement to report illegal aliens to the Immigration and Naturalization Service;

(11) requirements for use of certain Federal and State data sources in verifying food stamp participants' eligibility;

(12) requirements to take measures to ensure that households are not receiving duplicate benefits; and

(13) requirements for the provision of social security numbers as a condition of eligibility and for their use by State agencies.

States are allowed to standardize food stamp deductions and must not increase food stamp benefits when other public assistance benefits are decreased.

States electing to operate a simplified Food Stamp Program must include in their State plans the rules and procedures to be followed in determining benefits under the option; how they will address the needs of households with high shelter costs; and a description of the method by which States will carry out its quality control obligations.

#### *Section 1063. State Food Assistance Block Grant*

States that meet one of three conditions may elect to receive an annual block grant to operate a food assistance program for needy persons in lieu of the Food Stamp Program. Eligible States may opt for a block grant at any time, but, if the State chooses to withdraw from the block grant or is disqualified, it may not again opt for a block grant. Eligible States include:

(1) those that have fully implemented a statewide electronic benefit transfer (EBT) system;

(2) those for which the dollar value of erroneous benefit and eligibility determinations (overpayments, payments to ineligible, and underpayments) in the Food Stamp Program or their food assistance block grant program is 6 percent of benefits issued or less (a "payment error rate" of 6 percent or less); and

(3) those with a payment error rate higher than 6 percent that agree to contribute, from nonfederal sources, a dollar amount equal to the difference between their payment error rate and a 6 percent rate to pay for benefits and administration of their food assistance block grant program. A State's payment error rate for block grant purposes is the most recent rate available, as determined by the Secretary.

States electing a block grant are provided an annual grant equal to:

(1) the greater of the fiscal year 1994 amount received as food stamp benefits or the 1992–1994 average received as food stamp benefits, and

(2) the greater of the fiscal year 1994 Federal share of administrative costs or the 1992–1994 average received as the Federal share of administrative costs.

However, grants to States with payment error rates above 6 percent would be reduced by the amount they are required to contribute (the dollar amount equal to the difference between their payment error rate and a 6 percent rate). In general, block grant pay-

ments must be expended in the fiscal year for which they were distributed; but, States may reserve up to 10 percent per year, up to a total of 30 percent of the block grant. If total allotments for a fiscal year exceed the amount of funds available to provide them, the Secretary is required to reduce allotments on a pro-rata basis as necessary. Grant payments will be made by issuing letters of credit.

Block grant funding may only be used for food assistance and administrative costs related to its provision and, in each fiscal year, not more than 6 percent of total funds expended (including State funds required to be spent) may be used for administrative costs.

Each participating block grant State is required to maintain a food stamp quality control program to measure erroneous benefit and eligibility determinations, and block grant States will continue to be subject to the Food Stamp Program's quality control system (including eligibility for incentive payments and imposition of fiscal sanctions for high payment error rates). Each participating State is required to implement an employment and training program under Food Stamp Act terms and conditions and is eligible to receive Federal funding for employment and training activities (in addition to the food stamp block grant amount).

In order to receive a block grant, a State must annually submit a State plan for approval by the Secretary. The State plan must:

- (1) identify a lead administering agency;
- (2) describe how and to what extent the State's program serves specific groups (e.g., the elderly, migrant and seasonal farm workers, the homeless, those with earnings, and Indians) and how the treatment differs from their treatment under the Food Stamp Program;
- (3) provide that benefits are available statewide;
- (4) provide for notice and an opportunity for a hearing to those adversely affected;
- (5) assess the food and nutrition needs of needy person in the State;
- (6) describe the State's eligibility standards for assistance under the block grant;
- (7) establish a system for exchanging information with other States to verify participants' identity and the possible receipt of benefits in another State;
- (8) providing for safeguarding and restricting the use and disclosure of information about participants; and
- (9) other information required by the Secretary.

Eligibility for assistance under the block grant is determined by the State, and there is not individual entitlement to assistance. However, certain Federal rules apply:

- (1) aliens who are not eligible under the Food Stamp Program are not eligible for block grant aid;
- (2) persons and households who are ineligible under the Food Stamp Program's work rules are not eligible for block grant aid;
- (3) disqualification of fleeing felons; and
- (4) disqualification for child support arrears.

If the Secretary finds that there has been a failure to comply with provisions of the block grant or the State's approved plan or

finds that, in the operation of any program or activity for which assistance is provided, there is a failure by the State to comply substantially with block grant provisions, the Secretary must withhold funding, as appropriate, until satisfied there is no longer a failure to comply or that the noncompliance will be promptly corrected. In addition the Secretary may impose other appropriate penalties, including recoupment of improperly spent money and disqualification from the block grant. States must be provided notice and an opportunity for a hearing in this process.

The Secretary is authorized to conduct research on the effects and costs of a State food assistance block grant.

*Section 1064. A study of the use of food stamps to purchase vitamins and minerals*

The Secretary is required, in consultation with the National Academy of Sciences and the Center for Disease Control and Prevention, to conduct a study of the use of food stamps to purchase vitamins and minerals.

The Secretary is encouraged to conduct a study on whether some food items now eligible for purchase with food stamps should be eliminated from that eligibility.

*Section 1065. Investigations*

Regulations issued by the Secretary concerning civil money penalties and disqualification of retail food stores and wholesale food concerns must include criteria to support findings of food stamp violations on the basis of evidence that may include on-site investigations, redemption data, and transaction reports from electronic benefit transfer (EBT) systems.

*Section 1066. Food stamp eligibility*

States are permitted to include either all of an ineligible alien's income and resources in the income and resources of the household of which the alien is a member or the income, less a pro rata share, and the resources of the ineligible alien, to determine the value of the allotment of the household of which the individual is a member.

*Section 1067. Report by the Secretary*

The Secretary may prepare a report on the effect of the Food Stamp Program reforms of the Personal Responsibility and Work Opportunity Act of 1996. If prepared, the report will be submitted to the Committee on Agriculture of the House of Representatives not later than January 1, 2000.

*Section 1068. Deficit reduction*

This section expresses the sense of the Committee on Agriculture that reductions in outlays resulting from this title will not be taken into account for purposes of Section 552 of the Balanced Budget and Emergency Deficit Control Act of 1985.

## SUBTITLE B—COMMODITY DISTRIBUTION PROGRAMS

*Section 1071. Emergency Food Assistance Program*

The emergency food assistance program (TEFAP) and the soup kitchen/food bank program (Section 110 of the Hunger Prevention Act of 1988) are combined into TEFAP. Definitions applicable to the soup kitchen/food bank program are incorporated into TEFAP.

States are required to submit a State plan of operation every 4 years. State plans must include:

- (1) designation of the State agency responsible for distribution of TEFAP commodities;
- (2) a plan of operation and administration to distribute TEFAP commodities;
- (3) a description of the standards of eligibility for recipient agencies; and
- (4) a description of the standards of eligibility for individual or household recipients of commodities. Individuals and household recipients must be comprised of needy persons and must live in the geographic area served by the recipient agencies.

States are encouraged to set up an advisory board on which persons, from public and private entities, interested in commodity distribution programs, are invited to participate.

Beginning October 1, 1996, funds (\$300 million per year), from amounts appropriated under the Food Stamp Act, to purchase a variety of nutritious and useful commodities for distribution to States in accordance with TEFAP rules, are authorized through fiscal year 2002.

*Section 1072. Food bank demonstration project*

This section repeals the expired authority to carry out food bank demonstration projects.

*Section 1073. Hunger prevention programs*

This section repeals the authority for a separate soup kitchen/food bank program and other expired authority for evaluation and demonstration projects.

*Section 1074. Report on entitlement commodity processing*

This section deletes the expired authority requiring a report on commodity processing.

## SUBTITLE C—ELECTRONIC BENEFIT TRANSFER SYSTEMS

*Section 1091. Provisions to encourage electronic benefit transfer systems*

Electronic benefit transfer (EBT) programs (distributing needs-tested benefits) established under State or local law or administered by a State or local government are exempt from Regulation E requirements.

## COMMITTEE CONSIDERATION

## I—HEARINGS

The Committee on Agriculture met on February 1, 1995. Agriculture Committee Chairman Pat Roberts stated that the purpose of the hearing was to review enforcement efforts in the Food Stamp Program and that this must be accomplished prior to considering welfare reform.

*February 1, 1995*

The first witness was Roger Viadero, the Inspector General of the U.S. Department of Agriculture (USDA). Inspector General Viadero testified on the efforts of his office to investigate food stamp and electronic benefit transfer (EBT) trafficking and laundering operations in nonauthorized grocery stores, restaurants, and liquor stores. Video tapes of investigations in which officials of the Office of the Inspector General participated were shown to the committee.

The Inspector General also made recommendations for legislative and regulatory changes which he believed would enhance the integrity of the current Food Stamp Program. These recommendations included changing retailer eligibility criteria; submission of various tax or license forms to assure the retail food store is actually in operation; adding a 1-year waiting period for retailers prior to authorization; requiring a store visit by USDA's Food and Consumer Services (FCS) staff prior to authorization; charging stores a licensing fee; authorizing the forfeiture of proceeds in felony food stamp fraud; and suspension and permanent program disqualification for retailers who traffic in food stamps.

Congressman Ron Wyden, from Oregon, provided his recommendations for correcting existing abuses and systemic weaknesses in the Food Stamp Program. Mr. Wyden advocated reform of the current system and cautioned against efforts to send this program to the States in the form of a block grant. He suggested that the committee take a look at newly developed and emerging electronic technologies including biometric identification cards. He also expressed his support for program consolidation efforts.

Mr. Robert Rasor, representing the U.S. Secret Service, summarized the investigations and research performed by the Financial Crimes Division of the Secret Service relating to fraud and abuse in the Food Stamp Program. He reported that the Secret Service found very little evidence of counterfeiting in the program in the course of its investigations, but in its undercover investigations found the system to be quite vulnerable to other forms of abuse and fraud, such as embezzlement, recipient fraud, fraud by authorized retailers and trafficking in discounted food stamps by external parties. Mr. Rasor stressed the importance of incorporating new technologies in the form of EBT to minimize existing and future abuses to the Food Stamp Program.

The Subcommittee on Department Operations, Nutrition, and Foreign Agriculture met on February 7, 8, 9, and 14, 1995 to receive testimony on reforming the present welfare system. Subcommittee Chairman Bill Emerson expressed his desire to hear ideas on reforming the present welfare maintenance system from a wide variety of people.



*February 7, 1995*

Ms. Jane L. Ross, Director, Income Securities Issues, Health, Education, and Human Services, General Accounting Office (GAO) testified regarding the status of Federal means tested welfare programs. She reported that nearly 80 means-tested programs that compose the welfare system accounted for about 15 percent of Federal spending in fiscal year 1992. Federal welfare spending has risen from \$39 billion in 1975 to nearly \$208 billion in 1992. According to GAO's figures, growth in five major entitlement programs has driven this expansion. Aid to Families with Dependent Children (AFDC), food stamps, Medicaid, Supplemental Security Income (SSI) and two major housing programs resulting in a 106 percent increase in inflation adjusted dollars over this time period.

The GAO's work has shown that these means tested programs can be costly and difficult to administer. They sometimes overlap one another or are so narrowly focused that they create gaps in services. The task of applying for benefits is arduous and complex. Furthermore, they have found that technology to run the programs is not being effectively developed and used, and that many of these programs are inherently vulnerable to fraud, waste, and abuse. Finally, despite many years of experience with these programs, very little is known about how well they are working and whether the programs are meeting the purposes stated in the various acts.

*February 8, 1995*

Congressman Michael N. Castle, from Delaware, urged the subcommittee to consider the Delaware Model of "one stop shopping" as it reforms the Nation's welfare delivery system. He described Delaware's model as an innovative and comprehensive delivery system. The system consists of approximately 160 different welfare programs and serves, through its service centers, over 600,000 individuals annually. This agency has the mission of promoting access to health and human services, addressing and communicating the communities service needs, and providing access to support services. Congressman Castle cited the overlap in programs that result in a patchwork welfare system that restricts the effectiveness and efficiency with which the programs can be carried out.

Mr. Thomas P. Eichler, Secretary of the Delaware Department of Services for Children, Youth, and Their Families, spoke on the Welfare Simplification and Coordination Advisory Committee authorized by Congress in the 1990 farm bill. Charged with examining policies and procedures of the food stamp, AFDC, medical assistance and housing assistance programs, the advisory committee made a series of recommendations for reform. The advisory committee recommended eliminating current programs and moving to one comprehensive program with the goal of moving participants toward self-sufficiency. Primary elements of the new program they recommended included (1) a single point of client entry, (2) common rules and definitions for participation, (3) a single means test for eligibility, and (4) a public and private partnership to provide coordinated services.

The Honorable Ellen Haas, USDA Under Secretary for Food, Nutrition, and Consumer Services, spoke on the state of 16 food and nutrition programs for which she is responsible. She reiterated the

administration's position that nutrition programs for the needy are in the national interest and reform of these programs should ensure access to a healthy, nutritious diet and promote health. She insisted further that block granting these programs would eliminate the "automatic adjuster" currently in place and possibly force States to provide less assistance in times of economic downturn.

Ms. Haas' recommendations for change included (1) nutrition security, (2) program integrity, (3) modernizing benefits delivery systems, (4) expanding State flexibility, (5) preserving economic responsiveness, and (6) promoting personal responsibility.

The Honorable Mary Jo Bane, Health and Human Services (HHS) Assistant Secretary for Children and Families, testified in support of the administration's 1994 welfare reform proposal. Her presentation covered three major issues; (1) the proper balance between national objectives and State flexibility; (2) the conversion of AFDC and the Food Stamp Program to block grants or capped discretionary programs; and (3) national requirements or accountability standards governing a reformed welfare system. Ms. Bane recommended that in order to ensure greater State flexibility final reform should (1) achieve the objectives of work, responsibility and accountability; (2) ensure stability in funding over time; (3) cushion State and individuals against economic cycles; and (4) preserve the basic family protections for needy Americans, particularly children.

Sister Augusta Hamel, the Executive Assistant to the President of Second Harvest National Network of Food Banks, the largest domestic hunger relief organization in the United States, reviewed the role of such organizations and the importance of the Federal contribution to this network. Sister Hamel spoke of the need for private sector participation in dealing with the hunger problem in this country, but also stressed that Federal participation has been critical to the success of these efforts and must continue. While reform is necessary, she stated that private resources are already pushed to the limit and some reform proposals may be asking more of the charitable sector than they can possibly deliver.

On behalf of other organizations similar to Second Harvest, Sister Hamel suggested that rather than block granting the programs to the States, as proposed, commodity distribution programs should be consolidated and integrated. The programs include the emergency food assistance program (TEFAP), commodity supplemental food program (CSFP), soup kitchens and food banks program (SKFB), and the charitable institutions and summer camps program (CIP) into a single program: the American Commodity Hunger Relief Program (ACHR).

Reverend Monseigneur Roger P. Morin, Executive Director, Department of Community Services, Archdiocese of New Orleans spoke in his capacity as Executive Director of the Department of Community Services in the Archdiocese of New Orleans. He advocated the retention of CSFP. He expressed the view that the tremendous purchasing power of the USDA combined with the cost effectiveness and efficiency of the volunteer distribution system give the taxpayer the highest return. Reverend William T. Cunningham, Director, of Focus Hope, another CSFP program operating in Detroit, Michigan, expressed support for preserving the CSFP because the program targets the Nation's most vulnerable

populations, the very young and the very old. CSFP in Detroit was described as a program that provides a monthly selection of foods specifically tailored to the nutritional needs of the populations served; purchases foods at one-half to one-sixth the cost of equivalent goods in retail stores; involves the entire community in the problems of hunger and poverty; and links job training, child care and other critical services for low-income families.

Ms. Zoe Slagle, the Food Distribution Coordinator with the Michigan Department of Education testified on behalf of her Department and the American Commodity Distribution Association (ACDA). She advocated the preservation of the commodity distribution programs and reiterated the claims made by others, that while food and nutrition programs should be further streamlined for efficiency and effectiveness, Federal programs still represent the highest return to the taxpayer because of the tremendous buying power of the Federal Government.

*February 9, 1995*

The Honorable John Engler, Governor of Michigan, advocated placing food and nutrition programs into a single block grant to the States. He further maintained that because States know the needs of their people, they should be given the authority to plan and administer welfare programs that encourage and assist people into productive jobs and off of government assistance. In his experience, Federal programs have had the opposite effect of encouraging recipients not to work. When the State of Michigan has sanctioned individuals who do not work by reducing their AFDC benefits, their food stamp allowances have gone up.

Ms. Carol Anderson, Director of the Economic Support Services Section in the Georgia Division of Family and Children Services, discussed recent innovations and policy changes relating to the delivery of assistance benefits. Through the use of waivers from HHS and USDA, Ms. Anderson and others in her division have streamlined program access and have created "one-stop shopping" for six State and Federal programs. She addressed the new "Work First" strategy in which eligibility staff are trained to assess participants strengths and weaknesses in obtaining employment; contracts for self-sufficiency that map out steps to economic independence; expedited child support services that are used to direct applicants from welfare to independence; and specialized job developers that are hired to work directly with employers.

Ms. Anderson said that while a block grant is attractive, reduced funding levels in current proposals gave her cause for concern. However, if States knew what block granting would bring in terms of funding and if they knew that block granting would also bring increased flexibility, there could be more opportunities to create better programs.

Mr. John Petraborg, Deputy Commissioner of the Minnesota Department of Human Services testified before the subcommittee regarding welfare reform efforts underway in Minnesota. Its simplification and streamlining efforts feature the concepts of "Work Pays" which allows families to keep part of their AFDC payments; an enforced social contract-requiring AFDC participants to develop

a plan of employment and self-support; and a program that combines and simplifies the AFDC and Food Stamp Programs.

Ms. Sammie Lynn Puett, Vice President for Public Services at the Continuing Education, and University Relations of the University of Tennessee, testified of the work of the Welfare Simplification and Coordination Advisory Commission created by Congress in 1990. She reviewed the objectives of the advisory committee and the problems that remain for welfare reformers. The advisory committee concluded that the numerous and overlapping programs at both the State and Federal level should be replaced by a single, one family-focused, client-oriented, comprehensive program.

Ms. Joyce Walsh, of the Larue County Health Center in Hodgenville, Kentucky discussed her observations and experiences as a local Special Supplemental Program for Women, Infants, and Children (WIC) program coordinator. She stated that WIC has achieved its original objectives of reducing infant mortality and morbidity. She advocated the retention of WIC and also suggested combining the administration of WIC and the Food Stamp Program. Ms. Walsh suggested that food prescriptions for the Food Stamp Program, similar to those found in WIC, be developed. She stated that this would improve the nutritional status of needy families and could be done at a reduced cost.

*February 14, 1995*

Congressman Tony Hall, from Ohio, testified in opposition to block grants to the States for AFDC, the Food Stamp Program, WIC, and other nutrition programs. He said that under block grants food assistance would not be automatically increased in time of recession and that allocations to the States may be miscalculated. He stated State flexibility could be increased, fraud reduced, and the costs of the various programs reduced without block granting these programs.

Congressman Ron Wyden, from Oregon discussed his recommendations for reducing fraud, waste and abuse in the Food Stamp Program. He made three specific recommendations: (1) implementation of asset forfeiture laws similar to forfeiture provisions under anti-drug trafficking statutes, (2) submission of verifiable business license by authorized food stamp retailers, and (3) possible imposition of a certification fee on retailers to pay for the enforcement of anti-fraud efforts of this certification process.

Mr. Robert Rector, Senior Policy Analyst for Welfare and Family Issues at The Heritage Foundation summarized the historical objectives, growth, and social and actual costs of the welfare system from 1930 to the present. He stated that welfare spending is now nine times greater than when President Lyndon Johnson launched the War on Poverty. In 1964, welfare spending absorbed 1.23 percent of Gross Domestic Product (GDP) and by 1993, spending had risen to 5.1 percent of GDP. Mr. Rector described three objectives for welfare spending: (1) sustain living standards through cash and noncash transfers, (2) promote self-sufficiency, and (3) aid economically distressed communities. He maintained the U.S. society can no longer tolerate or afford open-ended growth in welfare spending. His recommendations included phasing out welfare entitlements

and sending the programs to the States in the form of a block grant.

Ms. Anna Kondratas, Senior Fellow at the Hudson Institute, testified on the issue of welfare reform that would discourage illegitimacy, promote productivity, and preserve the family unit. She expressed the view that the current welfare system is seriously flawed and called for scrapping it entirely and replacing it with a system that gives more flexibility to the States to operate and even change AFDC. This reform should, in her view, be done gradually, preserving and combining programs that have proven successful. She also expressed support for devolution in the federalism debate, but cautioned that State and local bureaucracies are still bureaucracies, and many of them are no more efficient than Federal ones.

Mr. Mark Greenberg, of the Center for Law and Social Policy testified on the issue of welfare reform as it relates to Food Stamp Program reform. He made four principal points: (1) the Food Stamp Program has a different purpose, structure, and serves a much broader population than the AFDC program; (2) block-granting food stamps would seriously undercut the program's basic purpose; (3) block-granting the AFDC-related portion of food stamps raises additional difficulties; and (4) in light of imminent changes in AFDC, the Food Stamp Program's role as safety net becomes even more crucial.

Mr. Robert Greenstein, the Executive Director of the Center on Budget and Policy Priorities expressed the view that while welfare reform must take place, block grants are ill conceived and will jeopardize existing programs and harm those they are intended to help. Mr. Greenstein made recommendations for increasing flexibility and controlling costs without resorting to block grants. States, he said, should be allowed (1) to align food stamp employment and training programs with work activities for AFDC recipients; (2) to modify rules determining income and resources; (3) additional flexibility to simplify or standardize procedures for determining food stamp benefit levels of AFDC families; (4) to convert food stamp benefits to wage subsidies for employees; (5) to have impediments to EBT systems removed; and (6) to remove dozens of unnecessary and prescriptive State requirements.

Mr. Robert J. Fersh, President of the Food Research and Action Center, discussed the treatment of current participants in the food assistance programs and sought assurances that the new nutrition programs will meet the objectives of the current system. He also addressed the issue of national consensus on hunger and malnutrition prevention, minimum nutrition requirements for all 50 States, the Food Stamp Programs' responsiveness in times of economic change; and advantages of maintaining a national Food Stamp Program.

Mr. Timothy M. Hammonds, President and CEO of the Food Marketing Institute recommended changes that would lead to, reduction of fraud and abuse, enhancement of the dignity of the programs, and reduction of both public and private administrative costs. He recommended that current food assistance coupons not be issued in cash, but that EBT systems be implemented as quickly as possible, that national uniformity in the food assistance program should be a goal, and licensing requirements for participating re-

tailers should not be restrictive. The Honorable John R. Block, National-American Wholesale Grocers' Association (NAWGA) and former Secretary of Agriculture, expressed support for efforts aimed at block granting welfare programs to the States. He opposed proposals which cash out the Food Stamp Program to the States and instead expressed support for maintaining the food stamp coupon/EBT delivery system.

Mr. William C. Ferriera, President of the Apricot Producers of California and representing the Commodity Distribution Coalition, encouraged reform of programs but not discontinuance of Federal food assistance programs. He endorsed the consolidation plan as proposed by Second Harvest; recommended a complete review of program administration and technology utilization; encouraged making the commodity support component of Federal food assistance programs available to other programs; advocated preserving nutrition standards for school meal programs; and recommended that U.S. agriculture commodities be purchased for domestic food assistance programs.

Reverend Robert A. Sirico of the Acton Institute for the Study of Religion and Liberty discussed his belief that the Federal Government has almost entirely usurped the traditional role of religious institutions and charity. He advocated reforming the current welfare system by taking the function of charity from the government and returning it to the family and churches who understand the most basic needs of people. Reverend Frederick Kammer, the President of the Catholic Charities USA, cautioned against cashing out or block granting food stamps. He stated that the Food Stamp Program is the place of last resort for the poorest and most desperate. Churches and charities, he said, are incapable of handling the present hunger problems.

Ms. Virginia White, of the Kansas Food Bank Warehouse, Inc., advocated keeping the Food Stamp Program and other food programs in their current form and suggested that Members seek the support of Governors for a plan that would provide a food insurance safety net. Ms. Jasmine Gunthorpe of Baltimore, Maryland described her personal difficulties living and functioning within the current AFDC system. She works in a nine-month, part-time-minimum wage, contractual position. If her work exceeds AFDC income levels, she loses AFDC benefits for that period, requiring her to re-apply for AFDC benefits for the 3 months she is not working. She expressed frustration at having different social workers who estimate benefits, calculate wages, assess food stamp needs, and who help with child care. She recommended reforms that provide for basic needs for children; reduction in poverty not just a reduction of individuals from the welfare roles; and efforts to bring people into the mainstream of life. Mr. D. Michael Hancock of the Farmworker Justice Fund stated that in the event that food and nutrition programs are block granted to the States, States should be directed to ensure inclusion of farm workers in these programs. He also called for educating farm workers on food and nutrition programs and for bilingual program counselors.

*May 10, 1995*

The Subcommittee on Department Operations, Nutrition, and Foreign Agriculture held a hearing on the Food Stamp Program and electronic benefit transfer (EBT) systems. The chairman of the subcommittee, Bill Emerson, stated that during the 1995 debate on welfare reform questions arose concerning EBT and the actions of the Department of the Treasury that may limit the flexibility of States to establish EBT systems. Therefore the subcommittee scheduled a hearing to receive testimony from administration officials and others interested in the use of EBT systems in the Food Stamp Program.

The witnesses included representatives from the Department of the Treasury and the EBT Task Force who described the administrations's goals in implementing EBT. Representatives from the Missouri Department of Social Services and the Maryland Department of Human Resources testified about their States' experience with EBT systems. Persons representing organizations that assist States in the design of EBT systems and other groups also testified. These witnesses represented the Unysis Corporation, Applied Systems Institute and the Hull House of Chicago, Illinois.

Representatives from retail food stores and organizations interested in EBT services in food stores testified about the operation of EBT and the effect on persons using food benefits and the types of food purchased.

*June 8, 1995*

The Subcommittee on Department Operations, Nutrition, and Foreign Agriculture held a hearing on the Food Stamp Program and the administration's proposal included in the "Guidance of the Administration" for the Farm Bill. The chairman of the subcommittee, Bill Emerson, stated that while the committee had acted on reform of the Food Stamp Program earlier in the year, he intended to work with the administration and take their proposals into consideration.

The witnesses at the hearing included the Honorable Eni F. H. Faleomavaega, from American Samoa. Mr. Faleomavaega testified in support of the modified Food Stamp Program in American Samoa. The Honorable Ellen Haas, Under Secretary for Food, Nutrition, and Consumer Services, described the administration's proposal for the Food Stamp Program to provide State flexibility, reduce food stamp regulations, improve the integrity of the program, and enhance child support enforcement programs.

Other witnesses included representatives of organizations providing self-help services in communities, such as America the Beautiful, Sustainable Food Center, and the Society of St. Andrew.

*July 25, 1995*

The Subcommittee on Department Operations, Nutrition, and Foreign Agriculture held a hearing on the Food Stamp Program and a bill (H.R. 236) introduced by the chairman of the subcommittee, Bill Emerson concerning the use of food stamps to purchase vitamins and minerals. Chairman Emerson stated that he introduced H.R. 236 because he believes that persons receiving food stamps should have the option to use their benefits to purchase vitamins

and minerals. The Honorable William J. Martini and the Honorable Donald Payne testified in support of H.R. 236.

The Deputy Administrator of the Food Stamp Program and the Director of USDA's Center for Nutrition Policy and Promotion expressed reservations about H.R. 236.

Other witnesses offering testimony on the subject of the use of food stamps to purchase vitamins and minerals included representatives from the Council for Responsible Nutrition, the Department of Food Science of Rutgers University, University of Texas Medical Branch, Food Research and Action Center, and United Fresh Fruit and Vegetable Association.

## II—FULL COMMITTEE

The Committee on Agriculture met, pursuant to notice, on June 11, 1996, a quorum being present, to consider Title X and other related provisions of H.R. 3507 for its Recommendations to the Budget Committee as provided in the Budget Resolution Instructions contained in H.Con.Res. 178 with respect to the Reconciliation Bill for Fiscal Year 1997 to be introduced by the Budget Committee.

The chairman called the meeting to order at 1:40 p.m. and made a statement noting that H.R. 3507 was essentially the same bill that was approved by the House on December 21, 1996, by a vote of 245 yeas to 178 with one significant exception. The food stamp funding cap had been eliminated as a concession to and at the request of the National Governor's Association, the Clinton administration, and the Secretary of Agriculture.

Ranking Minority Member de la Garza was recognized for a statement, as were Mr. Emerson and Mr. LaHood.

The chairman laid before the committee his recommendations proposed for Title X and related provisions of H.R. 3507 and then asked Counsel to give a brief summary.

Thereafter, the chairman offered a technical, correcting and conforming amendment to Title X of H.R. 3507. The amendment was adopted by a voice vote.

Mr. Emerson was then recognized to offer and explain an amendment which would expand the definition of food eligible for purchase with food stamp coupons to include vitamins and minerals for home consumption. Discussion occurred on the amendment.

Mr. Condit was recognized to offer an amendment to the Emerson amendment which would require USDA to conduct a study on the anticipated impact of the purchase of vitamins and minerals with food stamps by recipients in the Food Stamp Program and report to the committee by December 15, 1996. Discussion occurred and Mr. Emerson noted that he was constrained to accept Mr. Condit's amendment. Mr. Volkmer noted that in the report accompanying H.R. 3603, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 1997, there was language which he believed prohibited USDA from conducting any studies within the food stamp, child nutrition, and WIC programs during fiscal year 1997. The amendment was adopted by a voice vote.

Mr. Smith was then recognized to offer and explain an amendment concerning the definition of food under the Food Stamp Act of 1977 and those certain foods that would be ineligible for pur-



chase with food stamps under his amendment. Discussion occurred, and Mr. Emerson requested that Mr. Smith withdraw his amendment so that hearings could be held on the issue. Mr. Smith then requested by unanimous consent that report language be included which would encourage USDA to conduct a study on whether or not some items now considered eligible as food for purchase under the Food Stamp Act of 1977 should be eliminated from that eligibility. Acting Chairman Gunderson pointed out that report language could encourage USDA to take certain actions, but that it could not mandate USDA to do so. Without objection, the report language to that effect was adopted and the amendment was withdrawn.

Mr. LaHood was recognized to offer and explain an amendment concerning the application of anti-tying restrictions to nonbank electronic benefit transfer (EBT) systems service providers that is similar to a law that applies to banks. Mr. LaHood explained that the amendment is intended to maintain competition among EBT service providers of electronic benefit transfer systems and financial services. Discussion occurred, and by a voice vote, the amendment was adopted.

Ms. Clayton was then recognized to offer and explain an amendment which would require that the number of hours required for work and training for able-bodied 18 to 50 year old persons with no dependents must be determined by dividing the amount of food stamp benefits by the minimum wage. Lengthy discussion occurred.

During the proceedings, the committee recessed at approximately 4:10 p.m. so Members could respond to votes on the House Floor. The chairman returned at 4:45 p.m. and announced that the House was now considering H.R. 3603, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 1997, and that the committee would recess, to reconvene subject to the call of the Chair and that the Clayton amendment would be the pending matter of business at that time.

On June 13, 1996 at 10:00 a.m. the committee reconvened to finish the consideration of Title X of H.R. 3507. The pending business from the business meeting of June 11, 1996 was the Clayton amendment as noted above. Chairman Roberts said that it was his understanding that an agreement had been reached on a modified amendment, and without objection, the pending Clayton amendment was withdrawn.

Ms. Clayton was recognized to offer and then explain a similar but modified amendment that would clarify in the definition of "work program" the term "program of employment or training." Ms. Clayton noted that questions had been raised as to the use of the conjunction "or" in the term "a program of employment or training" and the requirement of a subsequent paragraph to participate in 20 hours per week in a work program. The question was whether such 20 hours applied to a work activity as well as training program.

Mr. Gunderson said that he had not had an opportunity to review the revised amendment and that he was concerned about how the amendment would be consistent with the actions taken by the House Committee on Economic and Educational Opportunities on June 12, 1996. The amendment was then passed over to give Mr.

Gunderson and other members an opportunity to review it carefully.

Ms. Clayton was then recognized to offer and explain an amendment which would change the language in the text of the chairman's recommendation from 4 months to 6 months the amount of time that an able-bodied 18 to 50 year old person, with no dependents, could receive food stamp benefits before being required to comply with certain work requirements. Discussion occurred with Chairman Roberts noting that the CBO had estimated that the amendment would reduce the savings in the chairman's recommendations by \$885 million and he asked Ms. Clayton if she would like to withdraw her amendment. Ms. Clayton requested a vote, and by a voice vote the amendment was not adopted.

Mr. Gunderson was then recognized to discuss the Clayton modified amendment noted above which would clarify the definition of "work program" as a program of employment and training. Mr. Gunderson expressed concern that some States may be proceeding on two tracks as they consider work and training programs, one for food stamp recipients and one for AFDC recipients, and he suggested that consolidation of these programs is a worthy goal. Discussion occurred and by a voice vote the Clayton amendment to clarify the definition "work program" was adopted that substituted the words "a program of employment and training."

Mr. de la Garza was recognized to offer and explain a substitute amendment to Title X of H.R. 3507. Discussion occurred with Chairman Roberts noting that 55 percent of the food stamp reforms in H.R. 3507 are identical to those in the administration's bill offered by the Ranking Minority member in his amendment and that 72 percent of the food stamp reforms in H.R. 3507 are either identical or similar to those in the administration's bill so that there is bipartisan support for many reforms.

The chairman described provisions that are significantly different between H.R. 3507 and the de la Garza substitute amendment. He also noted provisions that are included in H.R. 3507 but not in the substitute amendment.

The chairman noted for the record that in H.R. 3507, but not in the substitute, existing waiver authority is revised and authority is provided to the Secretary to conduct pilot or experimental projects and waive certain requirements of the Food Stamp Act as long as such waivers for alternatives are consistent with the goals of the program and provides food for needy families. Chairman Roberts also stated that the de la Garza Substitute saved \$18.4 billion, while the savings for H.R. 3507 are \$23 billion which would meet the committee's obligation under the Budget Resolution instructions.

Lengthy discussion occurred with Mr. Baldacci asking the administration representatives and staff what would happen to States that had already been granted waivers and what would happen in the future if the Food Stamp Act were amended as recommended in the text under consideration.

Mrs. Thurman indicated that she wanted to work with the committee on two issues: the "able-bodied" work requirement program relating to 18-50 year old persons and the vehicle allowance provisions. Chairman Roberts suggested that the de la Garza Substitute

would be considered first and then the committee would consider other amendments on these issues.

After considerable discussion, the de la Garza Substitute, by a voice vote, was not adopted.

Mr. Pomeroy was then recognized to offer and explain an amendment which would retain a provision in current law that provides that there would be no cap on the excess shelter deduction beginning on January 1, 1997. H.R. 3507 would maintain current cap on shelter deduction after December 31, 1996. He raised the problems that arise in colder climates such as North Dakota. Discussion occurred and the chairman noted that the Congressional Budget Office estimated that the amendment would cost \$4 billion and that Mr. Pomeroy offered no off-setting costs and that he (the chairman) reluctantly must oppose the amendment. By a voice vote, the amendment was not adopted. Mr. Pomeroy requested a rollcall vote. By a recorded vote of 22 nays and 18 yeas, the Pomeroy amendment was not adopted. See Rollcall Vote No. 1.

Mrs. Thurman was then recognized to offer and explain an amendment on behalf of herself and Mrs. Clayton which would require annual indexing of the vehicle allowance from a base of \$4,600 for households with a working member or a member actively looking for work beginning October 1, 1996. Discussion occurred, and it was noted that the cost of the amendment had been roughly estimated by CBO to be \$350 million. Mr. Smith offered a verbal amendment to the Thurman amendment which would make the annual indexing of the vehicle allowance discretionary and dependent upon enactment of State law.

Mr. Volkmer raised the question of a point of order that no one had seen the Smith amendment to the Thurman amendment and that it was not in writing, and the amendment was laid aside to give staff and others a chance to discuss and review the Smith amendment.

Mr. Condit was then recognized to offer and explain an amendment which would clarify that evidence adduced by USDA could be used to support a finding of food stamp violations by stores. Such evidence could come from on-site investigations, redemption data and transaction reports from electronic benefit transfer systems. Mr. Condit also noted that the amendment was proposed by USDA and was not contained in H.R. 3507. Chairman Roberts stated that although he thought the amendment was duplicative of permanent law that he had no opposition to the amendment. By a voice vote, the Condit amendment was adopted.

Mr. Stenholm was then recognized to offer and explain an amendment to H.R. 3507 that would dedicate all savings from the bill to deficit reduction. Chairman Roberts requested that Mr. Stenholm withdraw his amendment as it was susceptible to a point of order as a nongermane amendment outside the jurisdiction of the Committee on Agriculture. Without objection, Mr. Stenholm withdrew his amendment.

Mr. Stenholm was also recognized to offer and explain an amendment which was a sense of the committee to the effect that reductions in outlays resulting from the committee's recommendations to this title to be used for deficit reduction. By a voice vote, the Stenholm amendment was adopted.

Discussion occurred about the conference process in 1995 regarding the Deficit Reduction Act of 1995.

Mr. Smith was then recognized to withdraw his verbal amendment to the Thurman-Clayton amendment concerning the indexing of the vehicle allowance. Further discussion occurred on the amendment and Mrs. Thurman requested a rollcall vote. By a recorded vote of 21 nays and 20 yeas, the amendment was not adopted. See Rollcall Vote #2.

Mr. Farr was then recognized to offer and explain an amendment which would mandate the Secretary of Agriculture and the Secretary of Health and Human Services to report on the effect of the Personal Responsibility and Work Opportunity Act and the ability of State and local government to deal with people in poverty. Chairman Roberts pointed out language in the report to accompany H.R. 3603, the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Bill of 1997 which prohibits USDA from conducting any studies within the food stamp, child nutrition, and WIC programs during fiscal year 1997. The chairman also stated that the Secretary of Health and Human Services was not under the jurisdiction of the Committee on Agriculture. Chairman Roberts offered a verbal amendment to make the amendment discretionary and apply it only to the Secretary of Agriculture and the recommendations in H.R. 3507, Title X and related provisions. Without objection, the Roberts amendment to the Farr amendment was accepted and by a voice vote the Farr amendment was adopted.

Mr. Gunderson then moved that Title X and its related provisions to food stamps contained in H.R. 3507, as amended, be submitted to the Budget Committee for its inclusion in the Reconciliation package to be reported to the House by the Budget Committee in response to the instructions to this committee contained in H.Con.Res. 178. By a voice vote the motion was accepted.

Chairman Roberts indicated that a letter had been sent to Mr. de la Garza enclosing a copy of a letter from Budget Committee Chairman Kasich advising that Minority Views could be submitted to the Budget Committee as late as Monday, June 17.

Without objection, staff was given permission to make any necessary technical, syntactical, clarifying, or conforming changes as are appropriate without changing the substance of the legislation.

The meeting adjourned, subject to the call of the Chair.

#### ROLLCALL VOTES

In compliance with clause 2(1)(2)(B) of rule XI of the House of Representatives, the committee sets forth the record of the following rollcall votes taken with respect to consideration of the recommendations regarding the Reconciliation Bill for Fiscal Year 1997:

#### ROLLCALL NO. 1

Summary: To retain a provision in current law which provides that there would no longer be a cap on the excess shelter deduction after December 31, 1996,

Offered by: Mr. Pomeroy.

Results: Failed by a rollcall vote: 18 yeas/22 nays.

Yeas: Cong. de la Garza, Cong. Brown, Cong. Stenholm, Cong. Volkmer, Cong. Johnson, Cong. Dooley, Cong. Clayton, Cong. Minge, Cong. Hilliard, Cong. Pomeroy, Cong. Holden, Cong. Baesler, Cong. Thurman, Cong. Bishop, Cong. Thompson, Cong. Farr, Cong. Pastor, and Cong. Baldacci.

Nays: Cong. Gunderson, Cong. Allard, Cong. Barrett, Cong. Ewing, Cong. Doolittle, Cong. Goodlatte, Cong. Pombo, Cong. Canady, Cong. Smith, Cong. Everett, Cong. Lucas, Cong. Lewis, Cong. Baker, Cong. Crapo, Cong. Calvert, Cong. Chenoweth, Cong. Hostettler, Cong. Bryant, Cong. Latham, Cong. Cooley, Cong. LaHood, and Cong. Roberts, Chairman.

Not Voting: Cong. Emerson, Cong. Combest, Cong. Boehner, Cong. Foley, Cong. Chambliss, Cong. Rose, Cong. Condit, and Cong. Peterson.

#### ROLLCALL NO. 2

Summary: To require annual indexing of the vehicle allowance for households with a working member or a member actively looking for work.

Offered By: Mrs. Thurman and Mrs. Clayton.

Results: Failed by a rollcall vote: 20 yeas/21 nays.

Yeas: Cong. Cooley, Cong. de la Garza, Cong. Brown, Cong. Stenholm, Cong. Volkmer, Cong. Johnson, Cong. Condit, Cong. Peterson, Cong. Dooley, Cong. Minge, Cong. Hilliard, Cong. Pomeroy, Cong. Holden, Cong. Baesler, Cong. Thurman, Cong. Bishop, Cong. Thompson, Cong. Farr, Cong. Pastor, and Cong. Baldacci.

Nays: Cong. Gunderson, Cong. Allard, Cong. Barrett, Cong. Ewing, Cong. Goodlatte, Cong. Pombo, Cong. Canady, Cong. Smith, Cong. Everett, Cong. Lucas, Cong. Lewis, Cong. Baker, Cong. Crapo, Cong. Calvert, Cong. Chenoweth, Cong. Hostettler, Cong. Bryant, Cong. Latham, Cong. Chambliss, Cong. LaHood, and Cong. Roberts, Chairman.

Not voting: Cong. Emerson, Cong. Combest, Cong. Boehner, Cong. Doolittle, Cong. Foley, Cong. Rose, and Cong. Clayton.

#### BUDGET ACT COMPLIANCE (SECTION 308 AND SECTION 403)

The provisions of clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, or new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 2(1)(C)(3) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 is as follows: [See consolidated Congressional Budget Office Cost Estimate on page 1931.]

## INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the committee estimates that enactment of the chairman's recommendations of the Committee on Agriculture with respect to the reconciliation bill for fiscal year 1997 will have no inflationary impact on the national economy.

## OVERSIGHT STATEMENT

No summary of oversight findings and recommendations made by the Committee on Government Reform and Oversight under clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives was available to the committee with reference to the subject matter specifically addressed by the chairman's recommendations of the Committee on Agriculture with respect to the reconciliation bill for fiscal year 1997.

No specific oversight activities other than the hearings detailed in this report were conducted by the committee within the definition of clause 2(b)(1) of Rule X of the Rules of the House of Representatives.

## CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974. [See consolidated Congressional Budget Office Cost Estimate on page 1940.]

## CHANGES IN EXISTING LAW MADE BY TITLE I OF THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**FOOD STAMP ACT OF 1977**

\* \* \* \* \*

## DEFINITIONS

SEC. 3. As used in this Act, the term:

(a) \* \* \*

\* \* \* \* \*

(c) "Certification period" means the period for which households shall be eligible to receive authorization cards. [Except as provided in section 6(c)(1)(C), for those households that are required to submit periodic reports under section 6(c)(1) of this Act, the certification period shall be at least six months but no longer than twelve months except that the foregoing limits on the certification period may, with the approval of the Secretary, be waived by a State agency for certain categories of households where such

waiver will improve the administration of the program. For households that are not required to submit periodic reports, the certification period shall be determined as follows:

[(1) In the case of a household all of whose members are included in a federally aided public assistance or general assistance grant, the period shall coincide with the period of such grant.

[(2) In the case of all other households, the period shall be not less than three months: *Provided*, That such period may be up to twelve months for any household consisting entirely of unemployable or elderly or primarily self-employed persons, or as short as circumstances require for those households as to which there is a substantial likelihood of frequent changes in income or household status, and for any household on initial certification, as determined by the Secretary. The maximum limit of twelve months for such period under the foregoing proviso may be waived by the Secretary where such waiver will improve the administration of the program.] *The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months.*

(d) "Coupon" means any coupon, stamp, [or type of certificate] *type of certificate, authorization card, cash or check issued in lieu of a coupon, or an access device, including an electronic benefit transfer card or personal identification number*, issued pursuant to the provisions of this Act.

\* \* \* \* \*

(i) "Household" means (1) an individual who lives alone or who, while living with others, customarily purchases food and prepares meals for home consumption separate and apart from the others, or (2) a group of individuals who live together and customarily purchase food and prepare meals together for home consumption. Spouses who live together, parents and their children 21 years of age or younger [(who are not themselves parents living with their children or married and living with their spouses)] who live together, and children (excluding foster children) under 18 years of age who live with and are under the parental control of a person other than their parent together with the person exercising parental control shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so. Notwithstanding the preceding sentences, an individual who lives with others, who is sixty years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from a severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household, without regard to the purchase of food and preparation of meals, if the income (as determined under section 5(d)) of the others, excluding the spouse, does not exceed the poverty line, as described in section 5(c)(1), by more than 65 per

centum. *Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without regard to the common purchase of food and preparation of meals.* In no event shall any individual or group of individuals constitute a household if they reside in an institution or boarding house, or else live with others and pay compensation to the others for meals. For the purposes of this subsection, residents of federally subsidized housing for the elderly, disabled or blind recipients of benefits under title I, II, X, XIV, or XVI of the Social Security Act, or are individuals described in paragraphs (2) through (7) of subsection (r), who are residents in a public or private nonprofit group living arrangement that serves no more than sixteen residents and is certified by the appropriate State agency or agencies under regulations issued under section 1616(e) of the Social Security Act or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section, temporary residents of public or private nonprofit shelters for battered women and children, residents of public or private nonprofit shelters for individuals who do not reside in permanent dwellings or have no fixed mailing addresses, who are otherwise eligible for coupons, and narcotics addicts or alcoholics, together with their children, who live under the supervision of a private nonprofit institution, or a publicly operated community mental health center, for the purpose of regular participation in a drug or alcoholic treatment program shall not be considered residents of institutions and shall be considered individual households.

\* \* \* \* \*

(o) “Thrifty food plan” means the diet required to feed a family of four persons consisting of a man and a woman twenty through fifty, a child six through eight, and a child nine through eleven years of age, determined in accordance with the Secretary’s calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary [shall (1) make] *shall—*

(1) *make* household-size adjustments (based on the unrounded cost of such diet) taking into account economies of [scale, (2) make] *scale*;

(2) *make* cost adjustments in the thrifty food plan for Hawaii and the urban and rural parts of Alaska to reflect the cost of food in Hawaii and urban and rural [Alaska, (3) make] *Alaska*;

(3) *make* cost adjustments in the separate thrifty food plans for Guam, and the Virgin Islands of the United States to reflect the cost of food in those States, but not to exceed the cost of food in the fifty States and the District of [Columbia, (4) through January 1, 1980, adjust the cost of such diet every January 1 and July 1 to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the six months ending the preceding September 30 and March 31, respectively, (5) on January 1, 1981, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of



the thrifty food plan for the twelve months ending the preceding September 30, (6) on October 1, 1982, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twenty-one months ending June 30, 1982, reduce the cost of such diet by 1 percent, and round the result to the nearest lower dollar increment for each household size, (7) on October 1, 1983, and October 1, 1984, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30, reduce the cost of such diet by 1 per centum, and round the result to the nearest lower dollar increment for each household size, (8) on October 1, 1985, and each October 1 thereafter through October 1, 1987, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30 and round the result to the nearest lower dollar increment for each household size, (9) on October 1, 1988, adjust the cost of such diet to reflect 100.65 percent of the cost of the thrifty food plan in the preceding June, and round the result to the nearest lower dollar increment for each household size, (10) on October 1, 1989, adjust the cost of such diet to reflect 102.05 percent of the cost, in the preceding June (without regard to the adjustment made under clause (9)), of the then most recent thrifty food plan as determined by the Secretary or the cost of the thrifty food plan in effect on the date of enactment of the Hunger Prevention Act of 1988, whichever is greater, and round the result to the nearest lower dollar increment for each household size, and (11) on October 1, 1990, and each October 1 thereafter, adjust the cost of such diet to reflect 103 percent of the cost, in the preceding June (without regard to any previous adjustment made under clause (9), (10), or this clause), of the then most recent thrifty food plan as determined by the Secretary or the cost of the thrifty food plan in effect on the date of enactment of the Hunger Prevention Act of 1988, whichever is greater, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1992, and (in the case of households residing in Alaska) on October 1, 1994, the Secretary may not reduce the cost of such diet.】 *Columbia; and*

*(4) on October 1, 1996, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet, in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary may not reduce the cost of the diet in effect on September 30, 1996.*

\* \* \* \* \*

(s) “Homeless individual” means—

(1) an individual who lacks a fixed and regular nighttime residence; or

(2) an individual who has a primary nighttime residence that is—

(A) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

(B) an institution that provides a temporary residence for individuals intended to be institutionalized;

(C) a temporary accommodation *for not more than 90 days* in the residence of another individual; or

(D) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

\* \* \* \* \*

#### ELIGIBLE HOUSEHOLDS

SEC. 5. (a) \* \* \*

[(b) The Secretary]

(b) *ELIGIBILITY STANDARDS.*—*Except as otherwise provided in this Act, the Secretary shall establish uniform national standards of eligibility (other than the income standards for Alaska, Hawaii, Guam, and the Virgin Islands of the United States established in accordance with subsections (c) and (e) of this section) for participation by households in the food stamp program in accordance with the provisions of this section. No plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary, and no State agency shall impose any other standards of eligibility as a condition for participating in the program.*

\* \* \* \* \*

(d) Household income for purposes of the food stamp program shall include all income from whatever source excluding only (1) any gain or benefit which is not in the form of money payable directly to a household (notwithstanding its conversion in whole or in part to direct payments to households pursuant to any demonstration project carried out or authorized under Federal law including demonstration projects created by the waiver of provisions of Federal law), except as provided in subsection (k), (2) any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in a quarter, subject to modification by the Secretary in light of subsection (f), (3) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like (A) awarded to a household member enrolled at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent thereof, (B) to the extent that they do not exceed the amount used for or made available as an allowance determined by such school, institution, program, or other grantor, for tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved), books, supplies, transportation, and other miscellaneous personal expenses (other than living expenses), of the student incidental to attending such school, institution, or program, and (C) to the extent loans include any origination fees and insurance premiums, (4) all loans other than educational loans on which repayment is deferred, (5) reimbursements which do not exceed expenses actually incurred and which do not represent a gain

or benefit to the household and any allowance a State agency provides no more frequently than annually to families with children on the occasion of those children's entering or returning to school or child care for the purpose of obtaining school clothes (except that no such allowance shall be excluded if the State agency reduces monthly assistance to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in the month for which the allowance is provided): *Provided*, That no portion of benefits provided under title IV-A of the Social Security Act, to the extent it is attributable to an adjustment for work-related or child care expenses (except for payments or reimbursements for such expenses made under an employment, education, or training program initiated under such title after the date of enactment of the Hunger Prevention Act of 1988, and no portion of any educational loan on which payment is deferred, grant, scholarship, fellowship, veterans' benefits, and the like that are provided for living expenses, shall be considered such reimbursement, (6) moneys received and used for the care and maintenance of a third-party beneficiary who is not a household member, (7) income earned by a child who is a member of the household, who is an elementary or secondary school student, and who is [21] 19 years of age or younger, (8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, cash donations based on need that are received from one or more private nonprofit charitable organizations, but not in excess of \$300 in the aggregate in a quarter, retroactive lump-sum social security or railroad retirement pension payments and retroactive lump-sum insurance settlements: *Provided*, That such payments shall be counted as resources, unless specifically excluded by other laws, (9) the cost of producing self-employed income, but household income that otherwise is included under this subsection shall be reduced by the extent that the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, (10) any income that any other Federal law specifically excludes from consideration as income for purposes of determining eligibility for the food stamp program except as otherwise provided in subsection (k) of this section, [(11) any payments or allowances made for the purpose of providing energy assistance (A) under any Federal law, or (B) under any State or local laws, designated by the State or local legislative body authorizing such payments or allowances as energy assistance, and determined by the Secretary to be calculated as if provided by the State or local government involved on a seasonal basis for an aggregate period not to exceed six months in any year even if such payments or allowances (including tax credits) are not provided on a seasonal basis because it would be administratively infeasible or impracticable to do so,] (11) a 1-time payment or allowance made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device, (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C.

231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the first month in which the adjustment was effective, (13) at the option of a State agency and subject to subsection (m), child support payments that are excluded under section 402(a)(8)(A)(vi) of the Social Security Act (42 U.S.C. 602(a)(8)(A)(vi)), (14) any payment made to the household under section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income credit), (15) any payment made to the household under section 6(d)(4)(I) for work related expenses or for dependent care, and (16) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under subparagraph (A)(iii) or (B)(iv) of section 1612(b)(4) of the Social Security Act (42 U.S.C. 1382a(b)(4)).

[(e) In computing household income for purposes of determining eligibility and benefit levels for households containing an elderly or disabled member and determining benefit levels only for all other households, the Secretary shall allow a standard deduction of \$85 a month for each household, except that households in Alaska, Hawaii, Guam, and the Virgin Islands of the United States shall be allowed a standard deduction of \$145, \$120, \$170, and \$75, respectively. Such standard deductions shall be adjusted (1) on October 1, 1983, to the nearest lower dollar increment to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for items other than food and the homeowners' costs and maintenance and repair component of shelter costs, as appropriately adjusted by the Bureau of Labor Statistics after consultation with the Secretary, for the fifteen months ending the preceding March 31, (2) on October 1, 1984, to the nearest lower dollar increment to reflect such changes for the fifteen months ending the preceding June 30, (3) on October 1, 1985, and October 1, 1986, to the nearest lower dollar increment to reflect such changes for the twelve months ending the preceding June 30, and (4) on October 1, 1987, and each October 1 thereafter, to the nearest lower dollar increment to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for items other than food, for the twelve months ending the preceding June 30. All households with earned income shall be allowed an additional deduction of 20 per centum of all earned income (other than that excluded by subsection (d) of this section), to compensate for taxes, other mandatory deductions from salary, and work expenses, except that such additional deduction shall not be allowed with respect to earned income that a household willfully or fraudulently fails (as proven in a proceeding provided for in section 6(b)) to report in a timely manner. Households, other than those households containing an elderly or disabled member, shall also be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, amounts made available and excluded for the expenses under subsection (d)(3), and expenses that are paid under section 6(d)(4)(I) for dependent care, to (1) a dependent care deduction, the maximum allowable level of which shall be \$200 a month for each dependent child under 2 years of age and \$175 a month for each other depend-

ent, for the actual cost of payments necessary for the care of a dependent when such care enables a household member to accept or continue employment, or training or education which is preparatory for employment and (2) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed. In the 15-month period ending September 30, 1995, such excess shelter expense deduction shall not exceed \$231 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, \$402, \$330, \$280, and \$171 a month, respectively. In the 15-month period ending December 31, 1996, such excess shelter expense deduction shall not exceed \$247 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, \$429, \$353, \$300, and \$182 a month, respectively. In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households, with regard to such expense, only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both. If a State agency elects to use a standard utility allowance that reflects heating or cooling costs, it shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, provided that the household still incurs out-of-pocket heating or cooling expenses. A State agency may use a separate standard utility allowance for households on behalf of which such payment is made, but may not be required to do so. A State agency not electing to use a separate allowance, and making a single standard utility allowance available to households incurring heating or cooling expenses (other than households described in the sixth sentence of this subsection) may not be required to reduce such allowance due to the provision (direct or indirect) of assistance under the Low-Income Home Energy Assistance Act of 1981. For purposes of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 shall be considered to be prorated over the entire heating or cooling season for which it was provided. A State agency shall allow a household to switch between any standard utility allowance and a deduction based on its actual utility costs at the end of any certification period and up to one additional time during each twelve-month period. Households con-

taining an elderly or disabled member shall also be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to—

[(A) an excess medical expense deduction for that portion of the actual cost of allowable medical expenses, incurred by elderly or disabled members, exclusive of special diets, that exceed \$35 a month;

[(B) a dependent care deduction, the maximum allowable level of which shall be the same as that contained in clause (1) of the fourth sentence of this subsection, for the actual cost of payments necessary for the care of a dependent, regardless of the dependent's age, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment; and

[(C) an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 per centum of monthly household income after all other applicable deductions have been allowed.

State agencies shall offer eligible households a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction provided for in subparagraph (A), in lieu of submitting information or verification on actual expenses on a monthly basis. The method described in the preceding sentence shall be designed to minimize the administrative burden for eligible elderly and disabled household members choosing to deduct their recurrent medical expenses pursuant to such method, shall rely on reasonable estimates of the member's expected medical expenses for the certification period (including changes that can be reasonably anticipated based on available information about the member's medical condition, public or private medical insurance coverage, and the current verified medical expenses incurred by the member), and shall not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period. Before determining the excess shelter expense deduction, all households shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if such household member was legally obligated to make such payments, except that the Secretary is authorized to prescribe by regulation the methods, including calculation on a retrospective basis, that State agencies shall use to determine the amount of the deduction for child support payments.】

(e) *DEDUCTIONS FROM INCOME.*—

(1) *STANDARD DEDUCTION.*—*The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of \$134, \$229, \$189, \$269, and \$118, respectively.*

(2) *EARNED INCOME DEDUCTION.*—

(A) *DEFINITION OF EARNED INCOME.*—*In this paragraph, the term “earned income” does not include income excluded by subsection (d) or any portion of income earned under a work supplementation or support program, as de-*

fined under section 16(b), that is attributable to public assistance.

(B) *DEDUCTION*.—Except as provided in subparagraph (C), a household with earned income shall be allowed a deduction of 20 percent of all earned income to compensate for taxes, other mandatory deductions from salary, and work expenses.

(C) *EXCEPTION*.—The deduction described in subparagraph (B) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.

(3) *DEPENDENT CARE DEDUCTION*.—

(A) *IN GENERAL*.—A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction, the maximum allowable level of which shall be \$200 per month for each dependent child under 2 years of age and \$175 per month for each other dependent, for the actual cost of payments necessary for the care of a dependent if the care enables a household member to accept or continue employment, or training or education that is preparatory for employment.

(B) *EXCLUDED EXPENSES*.—The excluded expenses referred to in subparagraph (A) are—

(i) expenses paid on behalf of the household by a third party;

(ii) amounts made available and excluded for the expenses referred to in subparagraph (A) under subsection (d)(3); and

(iii) expenses that are paid under section 6(d)(4).

(4) *DEDUCTION FOR CHILD SUPPORT PAYMENTS*.—

(A) *IN GENERAL*.—A household shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.

(B) *METHODS FOR DETERMINING AMOUNT*.—The Secretary may prescribe by regulation the methods, including calculation on a retrospective basis, that a State agency shall use to determine the amount of the deduction for child support payments.

(5) *HOMELESS SHELTER ALLOWANCE*.—A State agency may develop a standard homeless shelter allowance, which shall not exceed \$143 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the allowance may use the allowance in determining eligibility and allotments for the households, except that the State agency may prohibit the use of the allowance for households with extremely low shelter costs.

(6) *EXCESS MEDICAL EXPENSE DEDUCTION*.—

(A) *IN GENERAL*.—A household containing an elderly or disabled member shall be entitled, with respect to expenses

*other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds \$35 per month.*

**(B) METHOD OF CLAIMING DEDUCTION.—**

*(i) IN GENERAL.—A State agency shall offer an eligible household under subparagraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting information or verification on actual expenses on a monthly basis.*

*(ii) METHOD.—The method described in clause (i) shall—*

*(I) be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method;*

*(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and*

*(III) not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period.*

**(7) EXCESS SHELTER EXPENSE DEDUCTION.—**

*(A) IN GENERAL.—A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.*

*(B) MAXIMUM AMOUNT OF DEDUCTION.—In the case of a household that does not contain an elderly or disabled individual, the excess shelter expense deduction shall not exceed—*

*(i) in the 48 contiguous States and the District of Columbia, \$247 per month; and*

*(ii) in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, \$429, \$353, \$300, and \$182 per month, respectively.*

**(C) STANDARD UTILITY ALLOWANCE.—**

*(i) IN GENERAL.—In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.*



(ii) *RESTRICTIONS ON HEATING AND COOLING EXPENSES.*—An allowance for a heating or cooling expense may not be used in the case of a household that—

(I) does not incur a heating or cooling expense, as the case may be;

(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or

(III) shares the expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.

(iii) *MANDATORY ALLOWANCE.*—

(I) *IN GENERAL.*—A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and

(bb) the Secretary finds that the standards will not result in an increased cost to the Secretary.

(II) *HOUSEHOLD ELECTION.*—A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

(iv) *AVAILABILITY OF ALLOWANCE TO RECIPIENTS OF ENERGY ASSISTANCE.*—

(I) *IN GENERAL.*—Subject to subclause (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.

(II) *SEPARATE ALLOWANCE.*—A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.

*(III) STATES NOT ELECTING TO USE SEPARATE ALLOWANCE.—A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of subparagraph (C)(ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).*

*(IV) PRORATION OF ASSISTANCE.—For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.*

\* \* \* \* \*

(g)(1) \* \* \*

[(2) The Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources), and shall, in addition, include in financial resources any boats, snowmobiles, and airplanes used for recreational purposes, any vacation homes, any mobile homes used primarily for vacation purposes, any licensed vehicle (other than one used to produce earned income or that is necessary for transportation of a physically disabled household member and any other property, real or personal, to the extent that it is directly related to the maintenance or use of such vehicle) used for household transportation or used to obtain or continue employment to the extent that the fair market value of any such vehicle exceeds a level set by the Secretary, which shall be \$4,500 through August 31, 1994, \$4,550 beginning September 1, 1994, through September 30, 1995, \$4,600 beginning October 1, 1995, through September 30, 1996, and \$5,000 beginning October 1, 1996, as adjusted on such date and on each October 1 thereafter to reflect changes in the new car component of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics for the 12-month period ending on June 30 preceding the date of such adjustment and rounded to the nearest \$50, and, regardless of whether there is a penalty for early withdrawal, any savings or retirement accounts (including individual accounts). The Secretary shall exclude from financial resources the value of a vehicle that a household depends upon to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household.]

*(2) INCLUDED ASSETS.—*

*(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources).*

(B) *ADDITIONAL INCLUDED ASSETS.*—The Secretary shall include in financial resources—

(i) any boat, snowmobile, or airplane used for recreational purposes;

(ii) any vacation home;

(iii) any mobile home used primarily for vacation purposes;

(iv) subject to subparagraph (C), any licensed vehicle that is used for household transportation or to obtain or continue employment to the extent that the fair market value of the vehicle exceeds \$4,600; and

(v) any savings or retirement account (including an individual account), regardless of whether there is a penalty for early withdrawal.

(C) *EXCLUDED VEHICLES.*—A vehicle (and any other property, real or personal, to the extent the property is directly related to the maintenance or use of the vehicle) shall not be included in financial resources under this paragraph if the vehicle is—

(i) used to produce earned income;

(ii) necessary for the transportation of a physically disabled household member; or

(iii) depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.

\* \* \* \* \*

(k)(1) For purposes of subsection (d)(1), except as provided in paragraph (2), assistance provided to a third party on behalf of a household by a State or local government shall be considered money payable directly to the household if the assistance is provided in lieu of—

(A) a regular benefit payable to the household for living expenses under a State [plan for aid to families with dependent children approved] *program funded* under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

(B) a benefit payable to the household for housing expenses[, not including energy or utility-cost assistance,] under—

(i) a State or local general assistance program; or

(ii) another basic assistance program comparable to general assistance (as determined by the Secretary).

(2) Paragraph (1) shall not apply to—

(A) medical assistance;

(B) child care assistance;

[(C) energy assistance;]

(C) a payment or allowance described in subsection (d)(11);

(D) assistance provided by a State or local housing authority;

(E) emergency assistance for migrant or seasonal farmworker households during the period such households are in the job stream;

[(F)] housing assistance payments made to a third party on behalf of the household residing in transitional housing for the homeless;

[(G)] (F) emergency and special assistance, to the extent excluded in regulations prescribed by the Secretary; or

[(H)] (G) assistance provided to a third party on behalf of a household under a State or local general assistance program, or another local basic assistance program comparable to general assistance (as determined by the Secretary), if, under State law, no assistance under the program may be provided directly to the household in the form of a cash payment.

\* \* \* \* \*

(4) *THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—*

(A) *ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a Federal or State law to provide energy assistance to a household shall be considered money payable directly to the household.*

(B) *ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e)(7), an expense paid on behalf of a household under a Federal or State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.*

ELIGIBILITY DISQUALIFICATIONS

SEC. 6. (a) \* \* \*

(b)(1) Any person who has been found by any State or Federal court or administrative agency to have intentionally (A) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (B) committed any act that constitutes a violation of this Act, the regulations issued thereunder, or any State statute, for the purpose of using, presenting, transferring, acquiring, receiving, or possessing coupons or authorization cards shall, immediately upon the rendering of such determination, become ineligible for further participation in the program—

(i) for a period of [six months] *1 year* upon the first occasion of any such determination;

(ii) for a period of [1 year] *2 years* upon—

(I) the second occasion of any such determination; or

(II) the first occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for coupons; and

(iii) permanently upon—

(I) the third occasion of any such determination;

(II) the second occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for coupons; [or]

(III) the first occasion of a finding by a Federal, State, or local court of the trading of firearms, ammunition, or explosives for coupons[.]; or

*(IV) a conviction of an offense under subsection (b) or (c) of section 15 involving an item covered by subsection (b) or (c) of section 15 having a value of \$500 or more.*

During the period of such ineligibility, no household shall receive increased benefits under this Act as the result of a member of such household having been disqualified under this subsection.

\* \* \* \* \*

[(d)(1) Unless otherwise exempted by the provisions of paragraph (d)(2) of this subsection, (A) no person shall be eligible to participate in the food stamp program who is a physically and mentally fit person between the ages of sixteen and sixty who (i) refuses at the time of application and once every twelve months thereafter to register for employment in a manner determined by the Secretary; (ii) refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required under paragraph (4), including any reasonable employment requirements as are prescribed by the State agency in accordance with paragraph (4), and the period of ineligibility shall be two months; or (iii) refuses without good cause (including the lack of adequate child care for children above the age of five and under the age of twelve) to accept an offer of employment at a wage not less than the higher of either the applicable State or Federal minimum wage, or 80 per centum of the wage that would have governed had the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), been applicable to the offer of employment, and at a site or plant not then subject to a strike or lockout; and (B) no household shall be eligible to participate in the food stamp program (i) if the head of the household is a physically and mentally fit person between the ages of sixteen and sixty and such individual refuses to do any of those acts described in clause (A) of this sentence, or (ii) if the head of the household voluntarily quits any job without good cause, but, in such case, the period of ineligibility shall be ninety days. The State agency shall allow the household to select an adult parent of children in the household as its head where all adult household members making application agree to the selection. The household may designate its head of household under this paragraph each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household. An employee of the Federal Government, or of a State or political subdivision of a State, who engaged in a strike against the Federal Government, a State or political subdivision of a State and is dismissed from his job because of his participation in the strike shall be considered to have voluntarily quit such job without good cause. Any period of ineligibility for violations under this paragraph shall end when the household member who committed the violation complies with the requirement that has been violated. If the household member who committed the violation leaves the household during the period of ineligibility, such household shall no longer be subject to sanction for such violation and, if it is otherwise eligible, may resume participation in the food stamp program, but any other household of which such person thereafter becomes the head of the

household shall be ineligible for the balance of the period of ineligibility.]

(d) *CONDITIONS OF PARTICIPATION.*—

(1) *WORK REQUIREMENTS.*—

(A) *IN GENERAL.*—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—

(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

(ii) refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required by the State agency;

(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

(I) the applicable Federal or State minimum wage; or

(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

(v) voluntarily and without good cause—

(I) quits a job; or

(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

(vi) fails to comply with section 20.

(B) *HOUSEHOLD INELIGIBILITY.*—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

(ii) 180 days.

(C) *DURATION OF INELIGIBILITY.*—

(i) *FIRST VIOLATION.*—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

(I) the date the individual becomes eligible under subparagraph (A);

(II) the date that is 1 month after the date the individual became ineligible; or

(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

(ii) *SECOND VIOLATION.*—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

(I) the date the individual becomes eligible under subparagraph (A);

(II) the date that is 3 months after the date the individual became ineligible; or

(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

(iii) *THIRD OR SUBSEQUENT VIOLATION.*—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

(I) the date the individual becomes eligible under subparagraph (A);

(II) the date that is 6 months after the date the individual became ineligible;

(III) a date determined by the State agency; or

(IV) at the option of the State agency, permanently.

(D) *ADMINISTRATION.*—

(i) *GOOD CAUSE.*—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.

(ii) *VOLUNTARY QUIT.*—The Secretary shall determine the meaning of voluntarily quitting and reducing work effort for the purpose of this paragraph.

(iii) *DETERMINATION BY STATE AGENCY.*—

(I) *IN GENERAL.*—Subject to subclause (II) and clauses (i) and (ii), a State agency shall determine—

(aa) the meaning of any term in subparagraph (A);

(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and

(cc) whether an individual is in compliance with a requirement under subparagraph (A).

(II) *NOT LESS RESTRICTIVE.*—A State agency may not determine a meaning, procedure, or determination under subclause (I) to be less restrictive than a comparable meaning, procedure, or determination under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(iv) *STRIKE AGAINST THE GOVERNMENT.*—For the purpose of subparagraph (A)(v), an employee of the

*Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.*

(v) *SELECTING A HEAD OF HOUSEHOLD.—*

(I) *IN GENERAL.—For the purpose of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household if all adult household members making application under the food stamp program agree to the selection.*

(II) *TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.*

(vi) *CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the food stamp program under subparagraph (B)—*

(I) *the household shall, if otherwise eligible, become eligible to participate in the food stamp program; and*

(II) *if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineligible to participate in the food stamp program for the remaining period of ineligibility.*

(2) A person who otherwise would be required to comply with the requirements of paragraph (1) of this subsection shall be exempt from such requirements if he or she is (A) currently subject to and complying with a work registration requirement under title IV of the Social Security Act, as amended (42 U.S.C. 602), or the Federal-State unemployment compensation system, in which case, failure by such person to comply with any work requirement to which such person is subject [that is comparable to a requirement of paragraph (1)] shall be the same as failure to comply with that requirement of paragraph (1); [(B) a parent or other member of a household with responsibility for the care of a dependent child under age six or of an incapacitated person;] (B) *a parent or other member of a household with responsibility for the care of (i) a dependent child under the age of 6 or any lower age designated by the State agency that is not under the age of 1, or (ii) an incapacitated person;* (C) a bona fide student enrolled at least half time in any recognized school, training program, or institution of higher education (except that any such person enrolled in an institution of higher education shall be ineligible to participate in the food stamp program unless he or she meets the requirements of subsection (e) of this section); (D) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; (E) employed a minimum of thirty hours per week or receiving weekly earnings which



equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)), multiplied by thirty hours; or (F) a person between the ages of sixteen and eighteen who is not a head of a household or who is attending school, or enrolled in an employment training program, on at least a half-time basis.

\* \* \* \* \*

(4)(A) **[Not later than April 1, 1987, each]** *Each* State agency shall implement an employment and training program designed by the State agency and approved by the Secretary for the purpose of assisting members of households participating in the food stamp program in gaining skills, training, *work*, or experience that will increase their ability to obtain regular employment. *Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through the statewide workforce development system.*

(B) For purposes of this Act, an “employment and training program” means a program that contains one or more of the following components**[:]**, *except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application:*

(i) Job search programs **[with terms and conditions comparable to those prescribed in subparagraphs (A) and (B) of section 402(a)(35) of part A of title IV of the Social Security Act, except that the State agency shall retain the option to apply employment requirements prescribed under this clause to program applicants at the time of application]**.

(ii) Job search training programs that include, to the extent determined appropriate by the State agency, reasonable job search training and support activities that may consist of jobs skills assessments, job finding clubs, training in techniques for employability, job placement services, or other direct training or support activities, including educational programs, determined by the State agency to expand the job search abilities or employability of those subject to the program.

(iii) Workfare programs operated under section 20.

(iv) Programs designed to improve the employability of household members through actual work experience or training, or both, and to enable individuals employed or trained under such programs to move promptly into regular public or private employment. An employment or training experience program established under this clause shall—

**[(I) limit employment experience assignments to projects that serve a useful public purpose in fields such as health, social services, environmental protection, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care;**

**[(II) to the extent possible, use the prior training, experience, and skills of the participating member in making appropriate employment or training experience assignments;]**

**[(III) (I) not provide any work that has the effect of replacing the employment of an individual not participat-**

ing in the employment or training experience program;  
and

[(IV)] (II) provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours.

\* \* \* \* \*

(D)(i) Each State agency may exempt from any requirement for participation in any program under this paragraph categories of household members [to which the application of such participation requirement is impracticable as applied to such categories due to factors such as the availability of work opportunities and the cost-effectiveness of the employment requirements. In making such a determination, the State agency may designate a category consisting of all such household members residing in a specific area of the State. Each State may exempt, with the approval of the Secretary, members of households that have participated in the food stamp program 30 days or less].

(ii) Each State agency may exempt from any requirement for participation individual household members not included in any category designated as exempt under clause (i) [but with respect to whom such participation is impracticable because of personal circumstances such as lack of job readiness and employability, the remote location of work opportunities, and unavailability of child care].

(iii) Any exemption of a category or individual under this subparagraph shall be periodically evaluated to determine whether[, on the basis of the factors used to make a determination under clause (i) or (ii), the exemption continues to be valid. Such evaluations shall occur no less often than at each certification or recertification in the case of exemptions under clause (ii)] *the exemption continues to be valid.*

(E) Each State agency shall establish requirements for participation by individuals not exempt under subparagraph (D) in one or more employment and training programs under this paragraph, including the extent to which any individual is required to participate. Such requirements may vary among participants. [Through September 30, 1995, two States may, on application to and after approval by the Secretary, give priority in the provision of services to voluntary participants (including both exempt and non-exempt participants), except that this sentence shall not excuse a State from compliance with the performance standards issued under subparagraphs (K) and (L), and the Secretary may, at the Secretary's discretion, approve additional States' requests to give such priority if the Secretary reports to Congress on the number and characteristics of voluntary participants given priority under this sentence and such other information as the Secretary determines to be appropriate.]

\* \* \* \* \*

[(G)(i) The State] (G) *The State* agency may operate any program component under this paragraph in which individuals elect to participate.

[(ii) The State agency shall permit, to the extent it determines practicable, individuals not subject to requirements imposed under

subparagraph (E) or who have complied, or are in the process of complying, with such requirements to participate in any program under this paragraph.】

【(H)(i) The Secretary shall issue regulations under which each State agency shall establish a conciliation procedure for the resolution of disputes involving the participation of an individual in the program.

【(ii) Federal funds】 *(H) Federal funds* made available to a State agency for purposes of the component authorized under subparagraph (B)(v) shall not be used to supplant non-Federal funds used for existing services and activities that promote the purposes of this component.

(I)(i) The State agency shall provide payments or reimbursements to participants in programs carried out under this paragraph, including individuals participating under subparagraph (G), for—

(I) the actual costs of transportation and other actual costs (other than dependent care costs), that are reasonably necessary and directly related to participation in the program, except that the State agency may limit such reimbursement to each participant to \$25 per month; and

(II) the actual costs of such dependent care expenses that are determined by the State agency to be necessary for the participation of an individual in the program (other than an individual who is the caretaker relative of a dependent in a family receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in a local area where an employment, training, or education program under title IV of such Act is in operation【, or was in operation, on the date of enactment of the Hunger Prevention Act of 1988) up to any limit set by the State agency (which limit shall not be less than the limit for the dependent care deduction under section 5(e)), but in no event shall such payment or reimbursements exceed the applicable local market rate as determined by procedures consistent with any such determination under the Social Security Act【), except that no such payment or reimbursement shall exceed the applicable local market rate. Individuals subject to the program under this paragraph may not be required to participate if dependent costs exceed the limit established by the State agency under this subclause or other actual costs exceed any limit established under subclause (I).

\* \* \* \* \*

【(K)(i) For any fiscal year, the Secretary shall establish performance standards for each State that, in the case of persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D), designate the minimum percentages (not to exceed 10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995) of such persons that State agencies shall place in programs under this paragraph. Such standards need not be uniform for all the States, but may vary among the several States. The Secretary shall consider the cost to the States in setting performance standards and the degree of participation in programs under this paragraph by exempt persons. The Secretary shall not require the plan of a State agency to

provide for the participation of a number of recipients greater than 10 percent in fiscal years 1992 and 1993, and 15 percent in fiscal years 1994 and 1995, of the persons who are subject to employment requirements under this section and who are not exempt under subparagraph (D).

[(ii) In making any determination as to whether a State agency has met a performance standard under clause (i), the Secretary shall—

[(I) consider the extent to which persons have elected to participate in programs under this paragraph;

[(II) consider such factors as placement in unsubsidized employment, increases in earnings, and reduction in the number of persons participating in the food stamp program; and

[(III) consider other factors determined by the Secretary to be related to employment and training.

[(iii) The Secretary shall vary the performance standards established under clause (i) according to differences in the characteristics of persons required to participate and the type of program to which the standard is applied.

[(iv) The Secretary may delay establishing performance standards for up to 18 months after national implementation of the provisions of this paragraph, in order to base performance standards on State agency experience in implementing this paragraph.

[(L)(i) The Secretary shall establish performance standards and measures applicable to employment and training programs carried out under this paragraph that are based on employment outcomes, including increases in earnings.

[(ii) Final performance standards and measures referred to in clause (i) shall be published not later than 12 months after the date that the final outcome-based performance standards are published for job opportunities and basic skills training programs under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

[(iii) The standards shall encourage States to serve those individuals who have greater barriers to employment and shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph. The standards shall require participants to make levels of efforts comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.

[(iv) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the outcome-based performance standards described in this subparagraph.

[(v) A State agency shall be considered in compliance with applicable performance standards under subparagraph (K) if the State agency operates an employment and training program in a manner consistent with its approved plan and if the program requires participants to make levels of effort comparable to those required under the regulations set forth in section 273.7(f)(1) of title 7, Code of Federal Regulations in effect on January 1, 1991.]

*(K) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a*

*State agency uses to carry out this paragraph (including under subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.).*

[(M) (i)] (L) The Secretary shall ensure that State agencies comply with the requirements of this paragraph and section 11(e)(22).

[(ii) If the Secretary determines that a State agency has failed, without good cause, to comply with such a requirement, including any failure to meet a performance standard under subparagraph (J), the Secretary may withhold from such State, in accordance with section 16 (a), (c), and (h), such funds as the Secretary determines to be appropriate, subject to administrative and judicial review under section 14.

[(N)] (M) The facilities of the State public employment offices and agencies operating programs under the Job Training Partnership Act may be used to find employment and training opportunities for household members under the programs under this paragraph.

\* \* \* \* \*

(f) No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household unless he or she is (1) a resident of the United States and (2) either (A) a citizen or (B) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country; or (C) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259); or (D) an alien who has qualified for conditional entry pursuant to sections 207 and 208 of the Immigration and Nationality Act (8 U.S.C. 1157 and 1158); or (E) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); or (F) an alien within the United States as to whom the Attorney General has withheld deportation pursuant to section 243 of the Immigration and Nationality Act (8 U.S.C. 1253(h)). No aliens other than the ones specifically described in clauses (B) through (F) of this subsection shall be eligible to partici-

pate in the food stamp program as a member of any household. **¶**The income (less a pro rata share) and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection shall be considered in determining the eligibility and the value of the allotment of the household of which such individual is a member. **¶***The State agency shall, at its option, consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or such income, less a pro rata share, and the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which such individual is a member.*

\* \* \* \* \*

(i) **COMPARABLE TREATMENT FOR DISQUALIFICATION.**—

(1) **IN GENERAL.**—*If a disqualification is imposed on a member of a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.*

(2) **RULES AND PROCEDURES.**—*If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the food stamp program.*

(3) **APPLICATION AFTER DISQUALIFICATION PERIOD.**—*A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that a prior disqualification under subsection (d) shall be considered in determining eligibility.*

(j) **DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.**—*An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under the food stamp program.*

(k) **DISQUALIFICATION OF FLEEING FELONS.**—*No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—*

(1) *fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or*

(2) *violating a condition of probation or parole imposed under a Federal or State law.*

*(l) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—*

*(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as “the individual”) who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—*

*(A) in establishing the paternity of the child (if the child is born out of wedlock); and*

*(B) in obtaining support for—*

*(i) the child; or*

*(ii) the individual and the child.*

*(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.*

*(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).*

*(m) NONCUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—*

*(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified noncustodial parent of a child under the age of 18 (referred to in this subsection as “the individual”) shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—*

*(A) in establishing the paternity of the child (if the child is born out of wedlock); and*

*(B) in providing support for the child.*

*(2) REFUSAL TO COOPERATE.—*

*(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).*

*(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).*

*(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).*

*(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency ad-*

*ministering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.*

*(n) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—*

*(1) IN GENERAL.—At the option of the State agency, no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.*

*(2) EXCEPTIONS.—Paragraph (1) shall not apply if—*

*(A) a court is allowing the individual to delay payment; or*

*(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.*

*(o) WORK REQUIREMENT.—*

*(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term “work program” means—*

*(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);*

*(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or*

*(C) a program of employment and training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under section 6(d)(4), other than a job search program or a job search training program.*

*(2) WORK REQUIREMENT.—Subject to the other provisions of this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12-month period, the individual received food stamp benefits for not less than 4 months during which the individual did not—*

*(A) work 20 hours or more per week, averaged monthly;*

*or*

*(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or*

*(C) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.*

*(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—*

*(A) under 18 or over 50 years of age;*

*(B) medically certified as physically or mentally unfit for employment;*

*(C) a parent or other member of a household with responsibility for a dependent child;*

*(D) otherwise exempt under section 6(d)(2); or*

*(E) a pregnant woman.*

*(4) WAIVER.—*



(A) *IN GENERAL.*—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

- (i) has an unemployment rate of over 10 percent; or
- (ii) does not have a sufficient number of jobs to provide employment for the individuals.

(B) *REPORT.*—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(5) *SUBSEQUENT ELIGIBILITY.*—

(A) *IN GENERAL.*—Paragraph (2) shall cease to apply to an individual if, during a 30-day period, the individual—

- (i) works 80 or more hours;
- (ii) participates in and complies with the requirements of a work program for 80 or more hours, as determined by a State agency; or
- (iii) participates in a program under section 20 or a comparable program established by a State or political subdivision of a State.

(B) *LIMITATION.*—During the subsequent 12-month period, the individual shall be eligible to participate in the food stamp program for not more than 4 months during which the individual does not—

- (i) work 20 hours or more per week, averaged monthly;
- (ii) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or
- (iii) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.

#### ISSUANCE AND USE OF COUPONS

##### SEC. 7. (a) \* \* \*

\* \* \* \* \*

(i) **[(1)(A)]** Any State agency may, with the approval of the Secretary, implement an on-line electronic benefit transfer system in which household benefits determined under section 8(a) are issued from and stored in a central data bank and electronically accessed by household members at the point-of-sale.

**[(B)]** No State agency may implement or expand an electronic benefit transfer system without prior approval from the Secretary.

(1) *ELECTRONIC BENEFIT TRANSFERS.*—

(A) *IMPLEMENTATION.*—Each State agency shall implement an electronic benefit transfer system in which household benefits determined under section 8(a) or 26 are issued from and stored in a central databank before October 1, 2002, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an electronic benefit transfer system.

(B) *TIMELY IMPLEMENTATION.*—State agencies are encouraged to implement an electronic benefit transfer system under subparagraph (A) as soon as practicable.

(C) *STATE FLEXIBILITY.*—Subject to paragraph (2), a State agency may procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency considers appropriate.

(D) *OPERATION.*—An electronic benefit transfer system should take into account generally accepted standard operating rules based on—

- (i) commercial electronic funds transfer technology;
- (ii) the need to permit interstate operation and law enforcement monitoring; and
- (iii) the need to permit monitoring and investigations by authorized law enforcement agencies.

(2) The Secretary shall issue final regulations [effective no later than April 1, 1992,] that establish standards for the approval of such a system. The standards shall include—

(A) determining the cost-effectiveness of the system to ensure that its operational cost, including the pro rata cost of capital expenditures and other reasonable startup costs, does not exceed[, in any 1 year,] the operational cost of issuance systems in use prior to the implementation of the [on-line] electronic benefit transfer system;

(B) defining the required level of recipient protection regarding privacy, ease of use, and access to and service in retail food stores;

(C) the terms and conditions of participation by retail food stores, financial institutions, and other appropriate parties;

[(D) system security;]

(D)(i) *measures to maximize the security of a system using the most recent technology available that the State agency considers appropriate and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse; and*

*(ii) effective not later than 2 years after the effective date of this clause, to the extent practicable, measures that permit a system to differentiate items of food that may be acquired with an allotment from items of food that may not be acquired with an allotment.*

(E) system transaction interchange, reliability, and processing speeds;

(F) financial accountability;

(G) the required testing of system operations prior to implementation; [and]

(H) the analysis of the results of system implementation in a limited project area prior to expansion[.]; and

(I) procurement standards.

\* \* \* \* \*

(7) *REPLACEMENT OF BENEFITS.*—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer sys-

*tem shall be similar to the regulations in effect for a paper food stamp issuance system.*

(8) *REPLACEMENT CARD FEE.*—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.

(9) *OPTIONAL PHOTOGRAPHIC IDENTIFICATION.*—

(A) *IN GENERAL.*—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.

(B) *OTHER AUTHORIZED USERS.*—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of the household or any authorized representative of the household may utilize the card.

(10) *APPLICATION OF ANTI-TYING RESTRICTIONS TO ELECTRONIC BENEFIT TRANSFER SYSTEMS.*—

(A) *IN GENERAL.*—A company shall not sell or provide electronic benefit transfer services, or fix or vary the consideration for such services, on the condition or requirement that the customer—

(i) obtain some additional point-of-sale service from the company or any affiliate of the company; or

(ii) not obtain some additional point-of-sale service from a competitor of the company or competitor of any affiliate of the company.

(B) *DEFINITIONS.*—In this paragraph—

(i) *AFFILIATE.*—The term “affiliate” shall have the same meaning as in section 2(k) of the Bank Holding Company Act.

(ii) *COMPANY.*—The term “company” shall have the same meaning as in section 106(a) of the Bank Holding Company Act Amendments of 1970, but shall not include a bank, bank holding company, or any subsidiary of a bank holding company.

(iii) *ELECTRONIC BENEFIT TRANSFER SERVICE.*—The term “electronic benefit transfer service” means the processing of electronic transfers of household benefits determined under section 8(a) or 26 where the benefits are—

(I) issued from and stored in a central databank;

(II) electronically accessed by household members at the point of sale; and

(III) provided by a Federal or state government.

(iv) *POINT-OF-SALE SERVICE.*—The term “point-of-sale service” means any product or service related to the electronic authorization and processing of payments for merchandise at a retail food store, including but not limited to credit or debit card services, automated teller machines, point-of-sale terminals, or access to on-line systems.

(C) *CONSULTATION WITH THE FEDERAL RESERVE BOARD.*—*Before promulgating regulations or interpretations of regulations to carry out this paragraph, the Secretary shall consult with the Board of Governors of the Federal Reserve System.*

#### VALUE OF ALLOTMENT

SEC. 8. (a) The value of the allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be equal to the cost to such households of the thrifty food plan reduced by an amount equal to 30 per centum of the household's income, as determined in accordance with section 5 (d) and (e) of this Act, rounded to the nearest lower whole dollar: *Provided*, That for households of one and two persons the minimum allotment shall be \$10 per month[, and shall be adjusted on each October 1 to reflect the percentage change in the cost of the thrifty food plan without regard to the special adjustments under section 3(o) for the 12-month period ending the preceding June, with the result rounded to the nearest \$5].

\* \* \* \* \*

(c)(1) \* \* \*

(2) As used in this subsection, the term "initial month" means (A) the first month for which an allotment is issued to a household, (B) the first month for which an allotment is issued to a household following any period [of more than one month] in which such household was not participating in the food stamp program under this Act after the expiration of a certification period or after the termination of the certification of a household, during a certification period, when the household ceased to be eligible after notice and an opportunity for a hearing under section 11(e)(10), and (C) in the case of a migrant or seasonal farmworker household, the first month for which allotment is issued to a household that applies following any period of more than 30 days in which such household was not participating in the food stamp program after previous participation in such program.

[(3) A State agency—

[(A) in the case of a household that is not entitled in the month in which it applies to expedited service under section 11(e)(9), may provide that an eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraph (3) of section 11(e); and

[(B) in the case of a household that is entitled in the month in which it applies to expedited service under section 11(e)(9), shall provide that an eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 11(e).]

(3) *OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.*—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 11(e)(3) in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 11(e) in the case of a household that is entitled to expedited service.

[(d) A household against which a penalty has been imposed for an intentional failure to comply with a Federal, State, or local law relating to welfare or a public assistance program may not, for the duration of the penalty, receive an increased allotment as the result of a decrease in the household's income (as determined under sections 5(d) and 5(e)) to the extent that the decrease is the result of such penalty.

[(e)(1) The Secretary may permit not more than five statewide projects (upon the request of a State) and not more than five projects in political subdivisions of States (upon the request of a State or political subdivision) to operate a program under which a household shall be considered to have satisfied the application requirements prescribed under section 5(a) and the income and resource requirements prescribed under subsections (d) through (g) of section 5 if such household—

[(A) includes one or more members who are recipients of—

[(i) aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

[(ii) supplemental security income under title XVI of such Act (42 U.S.C. 1381 et seq.); or

[(iii) medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.); and

[(B) has an income that does not exceed the applicable income standard of eligibility described in section 5(c).

[(2) Except as provided in paragraph (3), a State or political subdivision that elects to operate a program under this subsection shall base the value of an allotment provided to a household under subsection (a) on—

[(A)(i) the size of the household; and

[(ii)(I) benefits paid to such household under a State plan for aid to families with dependent children approved under part A of title IV of the Social Security Act; or

[(II) the income standard of eligibility for medical assistance under title XIX of such Act; or

[(B) at the option of the State or political subdivision, the standard of need for such size household under the programs referred to in clause (A)(ii).

[(3) The Secretary shall adjust the value of allotments received by households under a program operated under this subsection to ensure that the average allotment by household size for households participating in such program and receiving such aid to families with dependent children, such supplemental security income, or

such medical assistance, as the case may be, is not less than the average allotment that would have been provided under this Act but for the operation of this subsection, for each category of households, respectively, in a State or political subdivision, for any period during which such program is in operation.

[(4) The Secretary shall evaluate the impact of programs operated under this subsection on recipient households, administrative costs, and error rates.

[(5) The administrative costs of such programs shall be shared in accordance with section 16.

[(6) In implementing this section, the Secretary shall consult with the Commissioner of Social Security and the Secretary of Health and Human Services to ensure that to the extent practicable, in the case of households participating in such programs, the processing of applications for, and determinations of eligibility to receive, food stamp benefits are simplified and are unified with the processing of applications for, and determinations of eligibility to receive, benefits under such titles of the Social Security Act (42 U.S.C. 601 et seq.).]

(d) *REDUCTION OF PUBLIC ASSISTANCE BENEFITS.*—

(1) *IN GENERAL.*—*If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction—*

*(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and*

*(B) the State agency may reduce the allotment of the household by not more than 25 percent.*

(2) *RULES AND PROCEDURES.*—*If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to reduce the allotment under the food stamp program.*

(e) *ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.*—

(1) *IN GENERAL.*—*In the case of an individual who resides in a center for the purpose of a drug or alcoholic treatment program described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—*

*(A) the center as an authorized representative of the individual for a period that is less than 1 month; and*

*(B) the individual, if the individual leaves the center.*

(2) *DIRECT PAYMENT.*—*A State agency may require an individual referred to in paragraph (1) to designate the center in which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.*

#### APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

SEC. 9. (a)(1) Regulations issued pursuant to this Act shall provide for the submission of applications for approval by retail food stores and wholesale food concerns which desire to be authorized

to accept and redeem coupons under the food stamp program and for the approval of those applicants whose participation will effectuate the purposes of the food stamp program. In determining the qualifications of applicants, there shall be considered among such other factors as may be appropriate, the following: (A) the nature and extent of the food business conducted by the applicant; (B) the volume of coupon business which may reasonably be expected to be conducted by the applicant food store or wholesale food concern; and (C) the business integrity and reputation of the applicant. Approval of an applicant shall be evidenced by the issuance to such applicant of a nontransferable certificate of approval. *No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the food stamp program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.*

\* \* \* \* \*

(3) *AUTHORIZATION PERIODS.*—*The Secretary shall establish specific time periods during which authorization to accept and redeem coupons, or to redeem benefits through an electronic benefit transfer system, shall be valid under the food stamp program.*

\* \* \* \* \*

(c) Regulations issued pursuant to this Act shall require an applicant retail food store or wholesale food concern to submit information, *which may include relevant income and sales tax filing documents*, which will permit a determination to be made as to whether such applicant qualifies, or continues to qualify, for approval under the provisions of this Act or the regulations issued pursuant to this Act. *The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified.* Regulations issued pursuant to this Act shall provide for safeguards which limit the use or disclosure of information obtained under the authority granted by this subsection to purposes directly connected with administration and enforcement of the provisions of this Act or the regulations issued pursuant to this Act, except that such information may be disclosed to any used by Federal law enforcement and investigative agencies and law enforcement and investigative agencies of a State government for the purposes of administering or enforcing this Act or any other Federal or State law and the regulations issued under this Act or such law, and State agencies that administer the special supplemental nutrition program for women, infants and children, authorized under section 17 of the Child Nutrition Act of 1966, for purposes of administering the provisions of that Act and the regulations issued under that Act. Any person who publishes, divulges, discloses,

or makes known in any manner or to any extent not authorized by Federal law (including a regulation) any information obtained under this subsection shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both. The regulations shall establish the criteria to be used by the Secretary to determine whether the information is needed. The regulations shall not prohibit the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law.

(d) Any retail food store or wholesale food concern which has failed upon application to receive approval to participate in the food stamp program may obtain a hearing on such refusal as provided in section 14 of this Act. *A retail food store or wholesale food concern that is denied approval to accept and redeem coupons because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial.*

\* \* \* \* \*

#### ADMINISTRATION

SEC. 11. (a) \* \* \*

\* \* \* \* \*

(e) The State plan of operation required under subsection (d) of this section shall provide, among such other provisions as may be required by regulation—

(1) \* \* \*

[(2) that each household which contacts a food stamp office in person during office hours to make what may reasonably be interpreted as an oral or written request for food stamp assistance shall receive and shall be permitted to file, on the same day that such contact is first made, a simplified, uniform national application form for participation in the food stamp program designed by the Secretary, unless the Secretary approves a deviation from that form by a particular State agency because of the use by that agency of a dual public assistance food stamp application form pursuant to subsection (i) of this section, the requirements of an agency's computer system, or other exigencies as determined by the Secretary, and in approving such deviation, the Secretary takes into account whether such State forms are easy to use, brief and readable. In consultation with the Secretary of Health and Human Services, the Secretary shall develop a program to provide assistance to States that request assistance in the development of brief, simply-written and readable application forms including application forms that cover the food stamp program, the aid to families with dependent children program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and medical assistance programs administered by the Secretary of Health and Human Services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.). Each food stamp application form shall contain, in plain and prominent language on its



front cover, a place where applicants can write their names, addresses, and signatures, and (on or near its front cover) explanations in understandable terms informing households of their right to file the application without immediately completing additional sections, describing the expedited processing requirements of section 11(e)(9) and informing households that benefits are provided only from the date of application. Each application form shall contain a description in understandable terms in prominent and boldface lettering of the appropriate civil and criminal provisions dealing with violations of this Act, including the penalties therefor, by members of an eligible household. Each application shall also contain in understandable terms and in prominent and boldface lettering a statement that the information provided by the applicant in connection with the application for a coupon allotment will be subject to verification by Federal, State, and local officials to determine if such information is factual and that if any material part of such information is incorrect, food stamps may be denied to the applicant, and that the applicant may be subjected to criminal prosecution for knowingly providing incorrect information. The State agency shall waive in-office interviews, on a household's request, if a household is unable to appoint an authorized representative pursuant to paragraph (7) and has no adult household members able to come to the appropriate State agency office because such members are elderly, are mentally or physically handicapped, live in a location not served by a certification office, or have transportation difficulties or similar hardships as determined by the State agency (including hardships due to residing in a rural area, illness, care of a household member, prolonged severe weather, or work or training hours). If an in-office interview is waived, the State agency may conduct a telephone interview or a home visit. The State agency shall provide for telephone contact by, mail delivery of forms to, and mail return of forms by, households that have transportation difficulties or similar hardships. The State agency shall require that an adult representative of each household that is applying for food stamp benefits shall certify in writing, under penalty of perjury, that the information contained in the application is true and that all members of the household are either citizens or are aliens eligible to receive food stamps under section 6(f). The signature of the adult under this section shall be deemed sufficient to comply with any provision of Federal law requiring household members to sign the application or statements in connection with the application process. The State agency shall provide a method of certifying and issuing coupons to eligible households that do not reside in permanent dwellings or who do not have fixed mailing addresses. In carrying out the preceding sentence, the State agency shall take such steps as are necessary to ensure that participation in the food stamp program is limited to eligible households;■

*(2)(A) that the State agency shall establish procedures governing the operation of food stamp offices that the State agency determines best serve households in the State, including house-*

*holds with special needs, such as households with elderly or disabled members, households in rural areas with low-income members, homeless individuals, households residing on reservations, and households in areas in which a substantial number of members of low-income households speak a language other than English;*

*(B) that in carrying out subparagraph (A), a State agency—*

*(i) shall provide timely, accurate, and fair service to applicants for, and participants in, the food stamp program;*

*(ii) shall develop an application containing the information necessary to comply with this Act;*

*(iii) shall permit an applicant household to apply to participate in the program on the same day that the household first contacts a food stamp office in person during office hours;*

*(iv) shall consider an application that contains the name, address, and signature of the applicant to be filed on the date the applicant submits the application;*

*(v) shall require that an adult representative of each applicant household certify in writing, under penalty of perjury, that—*

*(I) the information contained in the application is true; and*

*(II) all members of the household are citizens or are aliens eligible to receive food stamps under section 6(f);*

*(vi) shall provide a method of certifying and issuing coupons to eligible homeless individuals, to ensure that participation in the food stamp program is limited to eligible households; and*

*(vii) may establish operating procedures that vary for local food stamp offices to reflect regional and local differences within the State;*

*(C) that nothing in this Act shall prohibit the use of signatures provided and maintained electronically, storage of records using automated retrieval systems only, or any other feature of a State agency's application system that does not rely exclusively on the collection and retention of paper applications or other records;*

*(D) that the signature of any adult under this paragraph shall be considered sufficient to comply with any provision of Federal law requiring a household member to sign an application or statement;*

*(3) that the State agency shall thereafter promptly determine the eligibility of each applicant household by way of verification of income other than that determined to be excluded by section 5(d) of this Act (in part through the use of the information, if any, obtained under section 16(e) of this Act), household size (in any case such size is questionable), and such other eligibility factors as the Secretary determines to be necessary to implement sections 5 and 6 of this Act, although the State agency may verify prior to certification, whether questionable or not, the size of any applicant household and such other eligi-*

bility factors as the State agency determines are necessary, so as to complete certification of and provide an allotment retroactive to the period of application to any eligible household not later than thirty days following its filing of an application, and that the State agency [shall—

[(A) provide each] *shall provide each* applicant household, at the time of application, a clear written statement explaining what acts the household must perform to cooperate in obtaining verification and otherwise completing the application process;

[(B) assist each applicant household in obtaining appropriate verification and completing the application process;

[(C) not require any household to submit additional proof of a matter on which the State agency already has current verification as determined under regulations issued by the Secretary, unless the State agency has reason to believe that the information possessed by the agency is inaccurate, incomplete, or inconsistent;

[(D) subject to subparagraph (E), not deny any application for participation under this program solely because of the failure of a person outside the household to cooperate (other than an individual failing to cooperate who would otherwise be a household member but for the operation of any of the individual disqualification provisions of subsections (b), (d), (e), (f), and (g) of section 6); and

[(E) process applications if a household complies with the requirements of the first sentence of section 6(c), by taking appropriate steps to verify information otherwise required to be verified under this Act,

[and that the State agency shall provide the household, at the time of each certification and recertification, with a statement describing the reporting responsibilities of the household under this Act, and provide a toll-free or local telephone number, or a telephone number at which collect calls will be accepted by the State agency, at which the household may reach an appropriate representative of the State agency. Under rules prescribed by the Secretary, a State agency shall develop standard estimates of the shelter expenses that may reasonably be expected to be incurred by households in which all members are homeless but that are not receiving free shelter throughout the month. The Secretary may issue regulations to preclude the use of the estimates for households with extremely low shelter costs for whom the following sentence shall not apply. A State agency shall use the estimates in determining the allotments of the households, unless a household verifies higher expenses;]

\* \* \* \* \*

(6) [that (A) the] *that—*

(A) *the* State agency shall undertake the certification of applicant households in accordance with the general procedures prescribed by the Secretary in the regulations issued pursuant to this [Act; (B) the] *Act; and*

(B) *the* State agency personnel utilized in undertaking such certification shall be employed in accordance with the current standards for a Merit System of Personnel Administration or any standards later prescribed by the [United States Civil Service Commission] *Office of Personnel Management* pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards relating to the establishment and maintenance of personnel standards on a merit basis; [(C) the State agency shall provide a continuing, comprehensive program of training for all personnel undertaking such certification so that eligible households are promptly and accurately certified to receive the allotments for which they are eligible under this Act; (D) the State agency, at its option, may undertake intensive training to ensure that State agency personnel who undertake the certification of households that include a member who engages in farming are qualified to perform such certification; and (E) at its option, the State agency may provide, or contract for the provision of, training and assistance to persons working with volunteer or nonprofit organizations that provide program information activities or eligibility screening to persons potentially eligible for food stamps;]

\* \* \* \* \*

(8) safeguards which limit the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions of this Act, regulations issued pursuant to this Act, Federal assistance programs, or federally assisted State programs, except [that (A) such] *that*—

(A) *the* safeguards shall not prevent the use or disclosure of such information to the Comptroller General of the United States for audit and examination authorized by any other provision of [law, (B) notwithstanding] *law*;

(B) *notwithstanding* any other provision of law, all information obtained under this Act from an applicant household shall be made available, upon request, to local, State or Federal law enforcement officials for the purpose of investigating an alleged violation of this Act or any regulation issued under this [Act, and (C) such] *Act*;

(C) *the* safeguards shall not prevent the use by, or disclosure of such information, to agencies of the Federal Government (including the United States Postal Service) for purposes of collecting the amount of an overissuance of coupons, as determined under section 13(b) of this Act [and excluding claims arising from an error of the State agency, that has not been recovered pursuant to such section], from Federal pay (including salaries and pensions) as authorized pursuant to section 5514 of title 5 of the United States Code or a *Federal income tax refund as authorized by section 3720A of title 31, United States Code*;

(D) *notwithstanding any other provision of law, the address, social security number, and, if available, photograph of any member of a household shall be made available, on*

*request, to any Federal, State, or local law enforcement officer if the officer furnishes the State agency with the name of the member and notifies the agency that—*

*(i) the member—*

*(I) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime (or attempt to commit a crime) that, under the law of the place the member is fleeing, is a felony (or, in the case of New Jersey, a high misdemeanor), or is violating a condition of probation or parole imposed under Federal or State law; or*

*(II) has information that is necessary for the officer to conduct an official duty related to subclause (I);*

*(ii) locating or apprehending the member is an official duty; and*

*(iii) the request is being made in the proper exercise of an official duty; and*

*(E) the safeguards shall not prevent compliance with paragraph (16);*

*(9) that the State agency shall—*

*(A) provide coupons no later than [five days] 7 days after the date of application to any household which—*

*(i)(I) has gross income that is less than \$150 per month; or*

*(II) is a destitute migrant or a seasonal farm-worker household in accordance with the regulations governing such households in effect July 1, 1982; and*

*(ii) has liquid resources that do not exceed \$100; and*

*[(B) provide coupons no later than five days after the date of application to any household in which all members are homeless individuals and that meets the income and resource criteria for coupons under this Act;*

*[(C) provide coupons no later than five days after the date of application to any household that has a combined gross income and liquid resources that is less than the monthly rent, or mortgage, and utilities of the household; and*

*[(D)] (B) to the extent practicable, verify the income and liquid resources of a household referred to in subparagraph (A) [ , (B), or (C)] prior to issuance of coupons to the household;*

*(10) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of the State agency under any provision of its plan of operation as it affects the participation of such household in the food stamp program or by a claim against the household for an overissuance: *Provided*, That any household which timely requests such a fair hearing after receiving individual notice of agency action reducing or terminating its benefits within the household's certification period shall continue to participate and receive benefits on the basis authorized immediately prior to the notice of adverse action until such time as the fair hear-*

ing is completed and an adverse decision rendered or until such time as the household's certification period terminates, whichever occurs earlier, except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective. *At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and providing the household with an opportunity to request a hearing;*

\* \* \* \* \*

[(14)] that the State agency shall prominently display in all food stamp and public assistance offices posters prepared or obtained by the Secretary describing the information contained in subparagraphs (A) through (D) of this paragraph and shall make available in such offices for home use pamphlets prepared or obtained by the Secretary listing (A) foods that contain substantial amounts of recommended daily allowances of vitamins, minerals, and protein for children and adults; (B) menus that combine such foods into meals; (C) details on eligibility for other programs administered by the Secretary that provide nutrition benefits; and (D) general information on the relationship between health and diet;

[(15)] (14) that the State agency shall specify a plan of operation for providing food stamps for households that are victims of a disaster; that such plan shall include, but not be limited to, procedures for informing the public about the disaster program and how to apply for its benefits, coordination with Federal and private disaster relief agencies and local government officials, application procedures to reduce hardship and inconvenience and deter fraud, and instruction of caseworkers in procedures for implementing and operating the disaster program;

[(16)] (15) that the State agency shall require each household certified as eligible to participate by methods other than the out-of-office methods specified in the fourth sentence of paragraph (2) of this subsection in those project areas or parts of project areas in which the Secretary, in consultation with the Department's Inspector General, finds that it would be useful to protect the program's integrity and would be cost effective, to present a photographic identification card when using its authorization card in order to receive its coupons. The State agency may permit a member of a household to comply with this paragraph by presenting a photographic identification card used to receive assistance under a welfare or public assistance program;

[(17)] (16) notwithstanding paragraph (8) of this subsection, for the immediate reporting to the Immigration and

Naturalization Service by the State agency of a determination by personnel responsible for the certification or recertification of households that any member of a household is ineligible to receive food stamps because that member is present in the United States in violation of the Immigration and Nationality Act;

[(18)] (17) at the option of the State agency, for the establishment and operation of an automatic data processing and information retrieval system that meets such conditions as the Secretary may prescribe and that is designed to provide efficient and effective administration of the food stamp program;

[(19) that information is] (18) *at the option of the State agency, that information may be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of the Social Security Act and that any additional information available from agencies administering State unemployment compensation laws under the provisions of section 303(d) of the Social Security Act [shall be requested] may be requested* and utilized by the State agency (described in section 3(n)(1) of this Act) to the extent permitted under the provisions of section 303(d) of the Social Security Act;

[(20)] (19) that, in project areas or parts thereof where authorization cards are used, and eligible households are required to present photographic identification cards in order to receive their coupons, the State agency shall include, in any agreement or contract with a coupon issuer, a provision that (A) the issuer shall (i) require the presenter to furnish a photographic identification card at the time the authorization card is presented, and (ii) record on the authorization card the identification number shown on the photographic identification card; and (B) if the State agency determines that the authorization card has been stolen or otherwise was not received by a household certified as eligible, the issuer shall be liable to the State agency for the face value of any coupons issued in the transaction in which such card is used and the issuer fails to comply with the requirements of clause (A) of this paragraph;

[(21)] (20) that the State agency shall establish a system and take action on a periodic basis to verify and otherwise assure that an individual does not receive coupons in more than one jurisdiction within the State;

[(22)] (21) the plans of the State agency for carrying out employment and training programs under section 6(d)(4), including the nature and extent of such programs, the geographic areas and households to be covered under such program, and the basis, including any cost information, for exemptions of categories and individuals and for the choice of employment and training program components reflected in the plans;

[(23)] (22) in a project area in which 5,000 or more households participate in the food stamp program, for the establishment and operation of a unit for the detection of fraud in the food stamp program, including the investigation, and assistance in the prosecution, of such fraud;

[(24)] (23) at the option of the State, for procedures necessary to obtain payment of uncollected overissuance of coupons from unemployment compensation pursuant to section 13(c); [and]

[(25) a procedure for designating project areas or parts of project areas that are rural and in which low-income persons face substantial difficulties in obtaining transportation. The State agency shall designate the areas according to procedures approved by the Secretary. In each area so designated, the State agency shall provide for the issuance of coupons by mail to all eligible households in the area, except that any household with mail losses exceeding levels established by the Secretary shall not be entitled to such a mailing and the State agency shall not be required to issue coupons by mail in those localities within such area where the mail loss rates exceed standards set by the Secretary.]

(24) *the guidelines the State agency uses in carrying out section 6(i); and*

(25) *if a State elects to carry out a Simplified Food Stamp Program under section 26, the plans of the State agency for operating the program, including—*

(A) *the rules and procedures to be followed by the State agency to determine food stamp benefits;*

(B) *how the State agency will address the needs of households that experience high shelter costs in relation to the incomes of the households; and*

(C) *a description of the method by which the State agency will carry out a quality control system under section 16(c).*

\* \* \* \* \*

(g) If the Secretary determines, upon information received by the Secretary, investigation initiated by the Secretary, or investigation that the Secretary shall initiate upon receiving sufficient information evidencing a pattern of lack of compliance by a State agency of a type specified in this subsection, that in the administration of the food stamp program there is a failure by a State agency without good cause to comply with any of the provisions of this Act, the regulations issued pursuant to this Act, the State plan of operation submitted pursuant to subsection (d) of this section, the State plan for automated data processing submitted pursuant to subsection (o)(2) of this section, or [the Secretary's standards for the efficient and effective administration of the program established under section 16(b)(1) or] the requirements established pursuant to section 23 of this Act, the Secretary shall immediately inform such State agency of such failure and shall allow the State agency a specified period of time for the correction of such failure. If the State agency does not correct such failure within that specified period, the Secretary may refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance forthwith by the State agency and, upon suit by the Attorney General in an appropriate district court of the United States having jurisdiction of the geographic area in which the State agency is located and a showing that noncompliance has occurred, appropriate injunctive relief shall issue, and, whether or not the Sec-



retary refers such matter to the Attorney General, the Secretary shall proceed to withhold from the State such funds authorized under sections 16(a), 16(c), and 16(g) of this Act as the Secretary determines to be appropriate, subject to administrative and judicial review under section 14 of this Act.

\* \* \* \* \*

[(i) Notwithstanding any other provision of law, the Secretary, the Commissioner of Social Security and the Secretary of Health and Human Services shall develop a system by which (1) a single interview shall be conducted to determine eligibility for the food stamp program and the aid to families with dependent children program under part A of title IV of the Social Security Act; (2)]

(i) *APPLICATION AND DENIAL PROCEDURES.*—

(1) *APPLICATION PROCEDURES.*—*Notwithstanding any other provision of law, households in which all members are applicants for or recipients of supplemental security income shall be informed of the availability of benefits under the food stamp program and be assisted in making a simple application to participate in such program at the social security office and be certified for eligibility utilizing information contained in files of the Social Security Administration*[(3) households in which all members are included in a federally aided public assistance or State or local general assistance grant in a State that has a single State-wide general assistance application form shall have their application for participation in the food stamp program contained in the public assistance or general assistance application form, and households applying for a local general assistance grant in a local jurisdiction in which the agency administering the general assistance program also administers the food stamp program shall be provided an application for participation in the food stamp program at the time of their application for general assistance, along with information concerning how to apply for the food stamp program; and (4) new applicants, as well as households which have recently lost or been denied eligibility for public assistance or general assistance, shall be certified for participation in the food stamp program based on information in the public assistance or general assistance case file to the extent that reasonably verified information is available in such case file. In addition to implementing paragraphs (1) through (4), the State agency shall inform applicants for benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that such applicants may file, along with their application for such benefits, an application for benefits under this Act, and that if such applicants file, they shall have a single interview for food stamps and for benefits under part A of title IV of the Social Security Act. No].

(2) *DENIAL AND TERMINATION.*—*Other than in a case of disqualification as a penalty for failure to comply with a public assistance program rule or regulation, no household shall have its application to participate in the food stamp program denied nor its benefits under the food stamp program terminated solely on the basis that its application to participate has been denied or its benefits have been terminated under any of the programs carried out under the statutes specified in the second*

sentence of section 5(a) and without a separate determination by the State agency that the household fails to satisfy the eligibility requirements for participation in the food stamp program.

\* \* \* \* \*

(p) *STATE VERIFICATION OPTION.*—*Notwithstanding any other provision of law, in carrying out the food stamp program, a State agency shall not be required to use an income and eligibility or an immigration status verification system established under section 1137 of the Social Security Act (42 U.S.C. 1320b-7).*

#### CIVIL MONEY PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

SEC. 12. (a) Any approved retail food store or wholesale food concern may be disqualified for a specified period of time from further participation in the food stamp program, or subjected to a civil money penalty of up to \$10,000 for each violation if the Secretary determines that its disqualification would cause hardship to food stamp households, on a finding, made as specified in the regulations, that such store or concern has violated any of the provisions of this Act or the regulations issued pursuant to this Act. *Regulations issued pursuant to this Act shall provide criteria for the finding of violations and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence which may include, but is not limited to, facts established through on-site investigations, inconsistent redemption data or evidence obtained through transaction reports under electronic benefit transfer systems.*

(b) Disqualification under subsection (a) shall be—

(1) for a reasonable period of time, of no less than six months nor more than five years, upon the first occasion of disqualification;

(2) for a reasonable period of time, of no less than twelve months nor more than ten years, upon the second occasion of disqualification; **[and]**

(3) permanent upon—

(A) \* \* \*

\* \* \* \* \*

(C) a finding of the sale of firearms, ammunition, explosives, or controlled substance (as defined in section 802 of title 21, United States Code) for coupons, except that the Secretary shall have the discretion to impose a civil money penalty of up to \$20,000 for each violation (except that the amount of civil money penalties imposed for violations occurring during a single investigation may not exceed \$40,000) in lieu of disqualification under this subparagraph if the Secretary determines that there is substantial evidence (including evidence that neither the ownership nor management of the store or food concern was aware of, approved, benefited from, or was involved in the conduct or approval of the violation) that the store or food concern had an effective policy and program in effect to prevent violations of this Act**[.]**; *and*

(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.

\* \* \* \* \*

(g) *DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.*—

(1) *IN GENERAL.*—The Secretary shall issue regulations providing criteria for the disqualification under this Act of an approved retail food store and a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 1786).

(2) *TERMS.*—A disqualification under paragraph (1)—

(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

(C) notwithstanding section 14, shall not be subject to judicial or administrative review.

COLLECTION AND DISPOSITION OF CLAIMS

SEC. 13. (a) \* \* \*

[(b)(1)(A) In the case of any ineligibility determination under section 6(b) of this Act, the household of which such ineligible individual is a member is required to agree to a reduction in the allotment of the household of which such individual is a member, or payment in cash, in accordance with a schedule determined by the Secretary, that will be sufficient to reimburse the Federal Government for the value of any overissuance of coupons resulting from the activity that was the basis of the ineligibility determination. If a household refuses to make an election on the date of receipt (or, if the date of receipt is not a business day, on the next business day) of a demand for an election, or elects to make a payment in cash under the provisions of the preceding sentence and fails to do so, the household shall be subject to an allotment reduction.

[(B) State agencies shall collect any claim against a household arising from the overissuance of coupons based on an ineligibility determination under section 6(b), other than claims collected pursuant to subparagraph (A), by using other means of collection, unless the State agency demonstrates to the satisfaction of the Secretary that such other means are not cost effective.

[(2)(A) State agencies shall collect any claim against a household arising from the overissuance of coupons, other than claims the collection of which is provided for in paragraph (1) of this subsection and claims arising from an error of the State agency, by reducing the monthly allotments of the household, except that the household shall be given notice permitting it to elect another means of repayment and given 10 days to make such an election before the State agency commences action to reduce the house-

hold's monthly allotment. These collections shall be limited to 10 per centum of the monthly allotment (or \$10 per month, whenever that would result in a faster collection rate).

[(B) State agencies may collect any claim against a household arising from the overissuance of coupons, other than claims collected pursuant to paragraph (1) or subparagraph (A), by using other means of collection.]

(b) *COLLECTION OF OVERISSUANCES.*—

(1) *IN GENERAL.*—*Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—*

(A) *reducing the allotment of the household;*

(B) *withholding amounts from unemployment compensation from a member of the household under subsection (c);*

(C) *recovering from Federal pay or a Federal income tax refund under subsection (d); or*

(D) *any other means.*

(2) *COST EFFECTIVENESS.*—*Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.*

(3) *MAXIMUM REDUCTION ABSENT FRAUD.*—*If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—*

(A) *10 percent of the monthly allotment of the household; or*

(B) *\$10.*

(4) *PROCEDURES.*—*A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment.*

\* \* \* \* \*

(d) The amount of an overissuance of coupons [as determined under subsection (b) and except for claims arising from an error of the State agency,], *as determined under subsection (b)(1), that has not been recovered pursuant to such subsection may be recovered from Federal pay (including salaries and pensions) as authorized by section 5514 of title 5 of the United States Code or a Federal income tax refund as authorized by section 3720A of title 31, United States Code.*

#### ADMINISTRATIVE AND JUDICIAL REVIEW

SEC. 14. (a)(1) Whenever an application of a retail food store or wholesale food concern to participate in the food stamp program is denied pursuant to section 9 of this Act, or a retail food store or wholesale food concern is disqualified or subjected to a civil

money penalty under the provisions of section 12 of this Act, or a retail food store or wholesale food concern forfeits a bond under section 12(d) of this Act, or all or part of any claim of a retail food store or wholesale food concern is denied under the provisions of section 13 of this Act, or a claim against a State agency is stated pursuant to the provisions of section 13 of this Act, notice of such administrative action shall be issued to the retail food store, wholesale food concern, or State agency involved.

(2) Such notice shall be delivered by certified mail or personal service.

(3) If such store, concern, or State agency is aggrieved by such action, it may, in accordance with regulations promulgated under this Act, within ten days of the date of delivery of such notice, file a written request for an opportunity to submit information in support of its position to such person or persons as the regulations may designate.

(4) If such a request is not made or if such store, concern, or State agency fails to submit information in support of its position after filing a request, the administrative determination shall be final.

(5) If such request is made by such store, concern, or State agency, such information as may be submitted by the store, concern, or State agency, as well as such other information as may be available, shall be reviewed by the person or persons designated by the Secretary, who shall, subject to the right of judicial review hereinafter provided, make a determination which shall be final and which shall take effect thirty days after the date of the delivery or service of such final notice of determination.

(6) Determinations regarding claims made pursuant to section 16(c) (including determinations as to whether there is good cause for not imposing all or a portion of the penalty) shall be made on the record after opportunity for an agency hearing in accordance with section 556 and 557 of title 5, United States Code, in which one or more administrative law judges appointed pursuant to section 3105 of such title shall preside over the taking of evidence.

(7) Such judges shall have authority to issue and enforce subpoenas in the manner prescribed in sections 13 (c) and (d) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499m (c) and (d)) and to appoint expert witnesses under the provisions of Rule 706 of the Federal Rules of Evidence.

(8) The Secretary may not limit the authority of such judges presiding over determinations regarding claims made pursuant to section 16(c).

(9) The Secretary shall provide a summary procedure for determinations regarding claims made pursuant to section 16(c) in amounts less than \$50,000.

(10) Such summary procedure need not include an oral hearing.

(11) On a petition by the State agency or sua sponte, the Secretary may permit the full administrative review procedure to be used in lieu of such summary review procedure for a claim of less than \$50,000.

(12) Subject to the right of judicial review hereinafter provided, a determination made by an administrative law judge regarding a

claim made pursuant to section 16(c) shall be final and shall take effect thirty days after the date of the delivery or service of final notice of such determination.

(13) If the store, concern, or State agency feels aggrieved by such final determination, it may obtain judicial review thereof by filing a complaint against the United States in the United States court for the district in which it resides or is engaged in business, or, in the case of a retail food store or wholesale food concern, in any court of record of the State having competent jurisdiction, within thirty days after the date of delivery or service of the final notice of determination upon it, requesting the court to set aside such determination.

(14) The copy of the summons and complaint required to be delivered to the official or agency whose order is being attacked shall be sent to the Secretary or such person or persons as the Secretary may designate to receive service of process.

(15) The suit in the United States district court or State court shall be a trial de novo by the court in which the court shall determine the validity of the questioned administrative action in issue, except that judicial review of determinations regarding claims made pursuant to section 16(c) shall be a review on the administrative record.

(16) If the court determines that such administrative action is invalid, it shall enter such judgment or order as it determines is in accordance with the law and the evidence.

(17) During the pendency of such judicial review, or any appeal therefrom, the administrative action under review shall be and remain in full force and effect, unless on application to the court on not less than ten days' notice, and after hearing thereon and a consideration by the court of the applicant's likelihood of prevailing on the merits and of irreparable injury, the court temporarily stays such administrative action pending disposition of such trial or appeal.

(18) *SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 12(b) shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.*

\* \* \* \* \*

#### VIOLATIONS AND ENFORCEMENT

SEC. 15. (a) \* \* \*

\* \* \* \* \*

(g) The Secretary may subject to forfeiture and denial of property rights any nonfood items, moneys, negotiable instruments, securities, or other things of value that are furnished [or intended to be furnished] by any person in exchange for coupons, authorization cards or access devices, or anything of value obtained by use of an access device, in any manner contrary to this Act or the regulations issued under this Act. Any forfeiture and disposal of prop-

erty forfeited under this subsection shall be conducted in accordance with procedures contained in regulations issued by the Secretary.

(h) *CRIMINAL FORFEITURE.*—

(1) *IN GENERAL.*—*In imposing a sentence on a person convicted of an offense in violation of subsection (b) or (c), a court shall order, in addition to any other sentence imposed under this subsection, that the person forfeit to the United States all property described in paragraph (2).*

(2) *PROPERTY SUBJECT TO FORFEITURE.*—*All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation (other than a misdemeanor) of subsection (b) or (c), or proceeds traceable to a violation of subsection (b) or (c), shall be subject to forfeiture to the United States under paragraph (1).*

(3) *INTEREST OF OWNER.*—*No interest in property shall be forfeited under this subsection as the result of any act or omission established by the owner of the interest to have been committed or omitted without the knowledge or consent of the owner.*

(4) *PROCEEDS.*—*The proceeds from any sale of forfeited property and any monies forfeited under this subsection shall be used—*

*(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding;*

*(B) second, to reimburse the Department of Agriculture Office of Inspector General for any costs the Office incurred in the law enforcement effort resulting in the forfeiture;*

*(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and*

*(D) fourth, by the Secretary to carry out the approval, reauthorization, and compliance investigations of retail stores and wholesale food concerns under section 9.*

ADMINISTRATIVE COST-SHARING AND QUALITY CONTROL

SEC. 16. (a) The Secretary is authorized to pay to each State agency an amount equal to 50 per centum of all administrative costs involved in each State agency's operation of the food stamp program, which costs shall include, but not be limited to, the cost of (1) the certification of applicant households, (2) the acceptance, storage, protection, control, and accounting of coupons after their delivery to receiving points within the State, (3) the issuance of coupons to all eligible households, (4) food stamp informational activities, including those undertaken under section 11(e)(1)(A), *but not including recruitment activities*, (5) fair hearings, (6) automated data processing and information retrieval systems subject to the conditions set forth in subsection (g), (7) food stamp program investigations and prosecutions, and (8) implementing and operating the immigration status verification system established under section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d)): *Provided*, That the Secretary is authorized at the Secretary's discretion to pay any State agency administering the food stamp program on all

or part of an Indian reservation under section 11(d) of this Act such amounts for administrative costs as the Secretary determines to be necessary for effective operation of the food stamp program, as well as to permit each State to retain [25 percent during the period beginning October 1, 1990, and ending September 30, 1995, and 50 percent thereafter of the value of all funds or allotments recovered or collected pursuant to subsections (b)(1) and (c) of section 13 and 10 percent during the period beginning October 1, 1990, and ending September 30, 1995, and 25 percent thereafter of the value of all funds or allotments recovered or collected pursuant to section 13(b)(2) of this Act, except the value of funds or allotments recovered or collected pursuant to section 13(b)(2) which arise from an error of a State agency] 25 percent of the overissuances collected by the State agency under section 13, except those overissuances arising from an error of the State agency. The officials responsible for making determinations of ineligibility under this Act shall not receive or benefit from revenues retained by the State under the provisions of this subsection.

[(b) The Secretary shall (1) establish standards for the efficient and effective administration of the food stamp program by the States, including standards for the periodic review of the hours that food stamp offices are open during the day, week, or month to ensure that employed individuals are adequately served by the food stamp program, and (2) instruct each State to submit, at regular intervals, reports which shall specify the specific administrative actions proposed to be taken and implemented in order to meet the efficiency and effectiveness standards established pursuant to clause (1) of this subsection.]

(b) *WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—*

(1) *DEFINITION OF WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—In this subsection, the term “work supplementation or support program” means a program under which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a public assistance recipient who was not employed by the employer at the time the public assistance recipient entered the program.*

(2) *PROGRAM.—A State agency may elect to use an amount equal to the allotment that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting a job under a work supplementation or support program established by the State.*

(3) *PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—*

*(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;*



*(B) the State agency shall expend the amount received under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;*

*(C) for purposes of—*

*(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and*

*(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and*

*(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.*

*(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 6(d), except during the periods in which the individual is employed under the work supplementation or support program.*

*(5) LENGTH OF PARTICIPATION.—A State agency shall provide a description of how the public assistance recipients in the program shall, within a specific period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported.*

*(6) DISPLACEMENT.—A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.*

(c)(1) The program authorized under this Act shall include a system that enhances payment accuracy by establishing fiscal incentives that require State agencies with high error rates to share in the cost of payment error and provide enhanced administrative funding to States with the lowest error rates. Under such system—

(A) \* \* \*

(B) the Secretary shall foster management improvements by the States [pursuant to subsection (b)] by requiring State agencies other than those receiving adjustments under subparagraph (A) to develop and implement corrective action plans to reduce payment errors; and

\* \* \* \* \*

[(h)(1)(A) The Secretary shall allocate among the State agencies in each fiscal year, from funds appropriated for the fiscal year under section 18(a)(1), the amount of \$75,000,000 for each of the fiscal years 1991 through 2002 to carry out the employment and training program under section 6(d)(4), except as provided in paragraph (3), during the fiscal year.

[(B) In making the allocation required by subparagraph (A) for each of the fiscal years 1992 through 2002, the Secretary shall allocate \$15,000,000 among the States based on State agency performance under section 6(d)(4), as determined by the Secretary.

[(C) In making the allocation required by subparagraph (A) for fiscal year 1992, the Secretary shall allocate nonperformance fund-

ing of \$60,000,000 among the States in a manner such that each State is allocated funds equal to—

[(i) a funding level determined under the nonperformance funding allocation formula used for fiscal year 1991;

[(ii) increased by one half of the difference between such funding level and an amount, if larger, based on the State's proportion of the number of individuals registered for work under section 6(d)(4); or

[(iii) decreased by one half of the difference between such funding level and such amount, if such amount is smaller.

[(D) In making the allocation required by subparagraph (A) for each of the fiscal years 1993 through 2002, the Secretary shall allocate nonperformance funding of \$60,000,000 among the States based on each State's proportion of the number of individuals registered for work under section 6(d)(4).

[(E) Notwithstanding subparagraphs (C) and (D), the Secretary shall—

[(i) for fiscal year 1992, ensure that each State is allocated at least \$50,000 by reducing, to the extent necessary, the funds allocated to States (other than States allocated less than \$50,000) whose funding level has been increased under subparagraph (C); and

[(ii) for each of the fiscal years 1993 through 2002, ensure that each State is allocated at least \$50,000 by reducing, to the extent necessary, the funds allocated to those States allocated more than \$50,000.

[(F) Each such State's share of such reduction under subparagraph (E) shall represent its proportion of individuals registered for work under section 6(d)(4) in all States subject to the reduction.]

(h) *FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.*—

(1) *IN GENERAL.*—

(A) *AMOUNTS.*—*To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—*

*(i) for fiscal year 1996, \$75,000,000;*

*(ii) for fiscal year 1997, \$79,000,000;*

*(iii) for fiscal year 1998, \$81,000,000;*

*(iv) for fiscal year 1999, \$84,000,000;*

*(v) for fiscal year 2000, \$86,000,000;*

*(vi) for fiscal year 2001, \$88,000,000; and*

*(vii) for fiscal year 2002, \$90,000,000.*

(B) *ALLOCATION.*—*The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(o).*

(C) *REALLOCATION.*—

*(i) NOTIFICATION.*—*A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).*

*(ii) REALLOCATION.*—*On notification under clause (i), the Secretary shall reallocate the funds that the*

*State agency will not expend as the Secretary considers appropriate and equitable.*

(D) *MINIMUM ALLOCATION.*—*Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than \$50,000 in each fiscal year.*

(2) If, in carrying out such program during such fiscal year, a State agency incurs costs that exceed the amount allocated to the State agency under paragraph (1), the Secretary shall pay such State agency an amount equal to 50 per centum of such additional costs, subject to the first limitation in paragraph (3), *including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work.*

\* \* \* \* \*

(5) [(A)] The Secretary shall monitor the employment and training programs carried out by State agencies under section 6(d)(4) to measure their effectiveness in terms of the increase in the numbers of household members who obtain employment and the numbers of such members who retain such employment as a result of their participation in such employment and training programs.

[(B) The Secretary shall, not later than January 1, 1989, report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the effectiveness of such employment and training programs.]

[(6) The Secretary shall develop, and transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a proposal for modifying the rate of Federal payments under this subsection so as to reflect the relative effectiveness of the various States in carrying out employment and training programs under section 6(d)(4).]

(6) *BLOCK GRANT STATES.*—*Each State electing to operate a program under section 27 shall—*

*(A) receive the greater of—*

*(i) the total dollar value of the funds received under paragraph (1) by the State during fiscal year 1994; or*

*(ii) the average per fiscal year of the total dollar value of all funds received under paragraph (1) by the State during each of fiscal years 1992 through 1994; and*

*(B) be eligible to receive funds under paragraph (2), within the limitations in section 6(d)(4)(K).*

\* \* \* \* \*

#### RESEARCH, DEMONSTRATION, AND EVALUATIONS

SEC. 17. (a) \* \* \*

(b)(1)(A) The Secretary may conduct on a trial basis, in one or more areas of the United States, pilot or experimental projects designed to test program changes that might increase the efficiency

of the food stamp program and improve the delivery of food stamp [benefits to eligible households, including] *benefits to eligible households, and may waive any requirement of this Act to the extent necessary for the project to be conducted.*

(B) *PROJECT REQUIREMENTS.*—

(i) *PROGRAM GOAL.*—*The Secretary may not conduct a project under subparagraph (A) unless the project is consistent with the goal of the food stamp program of providing food assistance to raise levels of nutrition among low-income individuals.*

(ii) *PERMISSIBLE PROJECTS.*—*The Secretary may conduct a project under subparagraph (A) to—*

*(I) improve program administration;*

*(II) increase the self-sufficiency of food stamp recipients;*

*(III) test innovative welfare reform strategies; and*

*(IV) allow greater conformity with the rules of other programs than would be allowed but for this paragraph.*

(iii) *IMPERMISSIBLE PROJECTS.*—*The Secretary may not conduct a project under subparagraph (A) that—*

*(I) involves the payment of the value of an allotment in the form of cash, unless the project was approved prior to the date of enactment of this subparagraph;*

*(II) substantially transfers funds made available under this Act to services or benefits provided primarily through another public assistance program; or*

*(III) is not limited to a specific time period.*

(iv) *ADDITIONAL INCLUDED PROJECTS.*—*Pilot or experimental projects may include projects involving the payment of the value of allotments or the average value of allotments by household size in the form of cash to eligible households all of whose members are age sixty-five or over or any of whose members are entitled to supplemental security income benefits under title XVI of the Social Security Act or to aid to families with dependent children under part A of title IV of the Social Security Act, the use of countersigned food coupons or similar identification mechanisms that do not invade a household's privacy, and the use of food checks or other voucher-type forms in place of food coupons. [The Secretary may waive the requirements of this Act to the degree necessary for such projects to be conducted, except that no project, other than a project involving the payment of the average value of allotments by household size in the form of cash to eligible households or a project conducted under paragraph (3), shall be implemented which would lower or further restrict the income or resource standards or benefit levels provided pursuant to sections 5 and 8 of this Act.] Any pilot or experimental project imple-*

mented under this paragraph and operating as of October 1, 1981, involving the payment of the value of allotments in the form of cash to eligible households all of whose members are either age sixty-five or over or entitled to supplemental security income benefits under title XVI of the Social Security Act shall be continued through October 1, 2002, if the State so requests.

[(B)] (C)(i) No waiver or demonstration program shall be approved under this Act after the date of enactment of this subparagraph unless—

(I) any household whose food assistance is issued in a form other than coupons has its allotment increased to the extent necessary to compensate for any State or local sales tax that may be collected in all or part of the area covered by the demonstration project, the tax on purchases of food by any such household is waived, or the Secretary determines on the basis of information provided by the State agency that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

(II) the State agency conducting the demonstration project pays the cost of any increased allotments.

(ii) Clause (i) shall not apply if a waiver or demonstration project already provides a household with assistance that exceeds that which the household would otherwise be eligible to receive by more than the estimated amount of any sales tax on the purchases of food that would be collected from the household in the project area in which the household resides.

(D) *RESPONSE TO WAIVERS.—*

(i) *RESPONSE.—Not later than 60 days after the date of receiving a request for a waiver under subparagraph (A), the Secretary shall provide a response that—*

*(I) approves the waiver request;*

*(II) denies the waiver request and explains any modification needed for approval of the waiver request;*

*(III) denies the waiver request and explains the grounds for the denial; or*

*(IV) requests clarification of the waiver request.*

(ii) *FAILURE TO RESPOND.—If the Secretary does not provide a response in accordance with clause (i), the waiver shall be considered approved, unless the approval is specifically prohibited by this Act.*

(iii) *NOTICE OF DENIAL.—On denial of a waiver request under clause (i)(III), the Secretary shall provide a copy of the waiver request and a description of the reasons for the denial to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.*

(2) The Secretary shall, jointly with the Secretary of Labor, implement two pilot projects involving the performance of work in return for food stamp benefits in each of the seven administrative re-

gions of the Food and Nutrition Service of the Department of Agriculture, such projects to be (A) appropriately divided in each region between locations that are urban and rural in characteristics and among locations selected to provide a representative cross-section of political subdivisions in the States and (B) submitted for approval prior to project implementation, together with the names of the agencies or organizations that will be engaged in such projects, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Under such pilot projects, any person who is subject to the work registration requirements pursuant to section 6(d) of this Act, and is a member of a household that does not have earned income equal to or exceeding the allotment to which the household is otherwise entitled pursuant to section 8(a) of this Act, shall be ineligible to participate in the food stamp program as a member of any household during any month in which such person refuses, after not being offered employment in the private sector of the economy for more than thirty days (ten days in at least one pilot project area designated by the Secretary) after the initial registration for employment referred to in section ~~6(d)(1)(i)~~ *6(d)(1)(A)(i)* of this Act, to accept an offer of employment from a political subdivision or a prime sponsor pursuant to the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812), for which employment compensation shall be paid in the form of the allotment to which the household is otherwise entitled pursuant to section 8(a) of this Act, with each hour of employment entitling the household to a portion of the allotment equal in value to 100 per centum of the Federal minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206(a)(1)); which employment shall not, together with any other hours worked in any other capacity by such person exceed forty hours a week; and which employment shall not be used by the employer to fill a job opening created by the action of such employer in laying off or terminating the employment of any regular employee not supported under this paragraph in anticipation of filling the vacancy so created by hiring an employee or employees to be supported under this paragraph: *Provided*, That all of the political subdivision's or prime sponsor's public service jobs supported under the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812), are filled before such subdivision or sponsor can extend a job offer pursuant to this paragraph: *Provided further*, That the sponsor of each such project shall provide the assurances required of prime sponsors under section 205(c)(7), (8), (15), (19), and (24) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 845(c)), and the Secretary shall require such sponsors to comply with the conditions contained in sections 208(a)(1), (4), and (5) and (c) and 703(4) of the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 848 (a) and (c) and 983). The Secretary and the Secretary of Labor shall jointly issue reports to the appropriate committees of Congress on the progress of such pilot projects no later than six and twelve months following enactment of this Act, shall issue interim reports no later than October 1, 1979, October 1, 1980, and March 30, 1981, shall issue a final report describing the results of such pilot projects based upon

their operation from their commencement through the fiscal year ending September 30, 1981, and shall pay to the agencies or organizations operating such pilot projects 50 per centum of all administrative costs involved in such operation.

\* \* \* \* \*

[(d)(1) As used in this subsection, the term "qualification period" means a period of time immediately preceding—

[(A) in the case of a new applicant for benefits under this Act, the date on which application for such benefits is made by the individual; or

[(B) in the case of an otherwise continuing recipient of coupons under this Act, the date on which such coupons would otherwise be issued to the individual.

[(2) Upon application of a State or political subdivision thereof, the Secretary may conduct one pilot project involving the employment requirements described in this subsection in each of four project areas selected by the Secretary.

[(3) Under the pilot projects conducted pursuant to this subsection, except as provided in paragraphs (4), (5), and (6), an individual who resides in a project area shall not be eligible for assistance under this Act if the individual was not employed a minimum of twenty hours per week, or did not participate in a workfare program established under section 20, during a qualification period of—

[(A) thirty or more consecutive days, in the case of an individual whose benefits under a State or Federal unemployment compensation law were terminated immediately before such qualification period began; or

[(B) sixty or more consecutive days, in the case of an individual not described in clause (A).

[(4) The provisions of paragraph (3) shall not apply in the case of an individual who—

[(A) is under eighteen or over fifty-nine years of age;

[(B) is certified by a physician as physically or mentally unfit for employment;

[(C) is a parent or other member of a household with responsibility for the care of a dependent child under six years of age or of an incapacitated person;

[(D) is a parent or other caretaker of a child under six years of age in a household in which there is another parent who, unless covered by clause (A) or (B), or both such clauses, is employed a minimum of twenty hours per week or participating in a workfare program established under section 20;

[(E) is in compliance with section 6(d) and demonstrates, in a manner prescribed by the Secretary, that the individual is able and willing to accept employment but is unable to obtain such employment; or

[(F) is a member of any other group described by the Secretary.

[(5) The Secretary may waive the requirements of paragraph (3) in the case of all individuals within all or part of a project area if the Secretary finds that such area—

[(A) has an unemployment rate of over 10 per centum; or

[(B) does not have a sufficient number of jobs to provide employment for individuals subject to this subsection.

[(6) An individual who has become ineligible for assistance under this Act by reason of paragraph (3) may reestablish eligibility for assistance after a period of ineligibility by—

[(1) becoming employed for a minimum of twenty hours per week during any consecutive thirty-day period; or

[(2) participating in a workfare program established under section 20 during any consecutive thirty-day period.]

(d) *EMPLOYMENT INITIATIVES PROGRAM.*—

(1) *ELECTION TO PARTICIPATE.*—

(A) *IN GENERAL.*—*Subject to the other provisions of this subsection, a State may elect to carry out an employment initiatives program under this subsection.*

(B) *REQUIREMENT.*—*A State shall be eligible to carry out an employment initiatives program under this subsection only if not less than 50 percent of the households that received food stamp benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.*

(2) *PROCEDURE.*—

(A) *IN GENERAL.*—*A State that has elected to carry out an employment initiatives program under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).*

(B) *PAYMENT.*—*The Secretary shall pay to each State that has elected to carry out an employment initiatives program under paragraph (1) an amount equal to the value of the allotment that each household would be eligible to receive under this Act but for the operation of this subsection.*

(C) *OTHER PROVISIONS.*—*For purposes of the food stamp program (other than this subsection)—*

(i) *cash assistance under this subsection shall be considered to be an allotment; and*

(ii) *each household receiving cash benefits under this subsection shall not receive any other food stamp benefit for the period for which the cash assistance is provided.*

(D) *ADDITIONAL PAYMENTS.*—*Each State that has elected to carry out an employment initiatives program under paragraph (1) shall—*

(i) *increase the cash benefits provided to each household under this subsection to compensate for any State or local sales tax that may be collected on purchases of food by any household receiving cash benefits under this subsection, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited*



*nature of the items subject to the State or local sales tax; and*

*(ii) pay the cost of any increase in cash benefits required by clause (i).*

(3) *ELIGIBILITY.*—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

*(A) has worked in unsubsidized employment for not less than the preceding 90 days;*

*(B) has earned not less than \$350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;*

*(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or*

*(ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;*

*(D) is continuing to earn not less than \$350 per month from the employment referred to in subparagraph (A); and*

*(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.*

(4) *EVALUATION.*—A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.

\* \* \* \* \*

[(i)(1) The Secretary may conduct four demonstration projects, in both urban and rural areas, under which households in which each member receives benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (hereafter in this subsection referred to as an “eligible household”) shall be issued monthly allotments following the rules and procedures of programs under part A of title IV of the Social Security Act, and without regard to the eligibility, benefit, and administrative rules established under this Act other than those terms and conditions specified under this subsection or established by the Secretary to ensure program integrity.

[(2) In carrying out the demonstration projects, the Secretary shall ensure the following:

[(A) The third sentence of section 3(i), subsections (b) and (d)(2) of section 6, the first sentence of section 6(c), paragraphs (1)(B), (3), (4), and (9) of section 11(e), and all applicable provisions of this Act dealing with the treatment of homeless individuals and migrant and seasonal farm worker households shall apply.

[(B) Assistance under the food stamp program shall be furnished to all eligible households who make application for assistance by providing any information that is needed by the State agency to determine the correct monthly allotment and that has not been provided as part of the household’s applica-

tion for assistance under part A of title IV of the Social Security Act.

[(C) Eligible households' monthly allotments shall be calculated under section 8(a), except that a household's income shall be determined in accordance with subparagraphs (D) and (E). The allotments shall be provided retroactive to the date of application.

[(D) For purposes of determining monthly allotments under this subsection, household income shall be the benefit provided under part A of title IV of the Social Security Act and the amount used to determine the household's benefit under such part (not including any amount disregarded for dependent care expenses), except that the amount shall be calculated without regard to section 402(a)(7)(C) of such Act (42 U.S.C. 602(a)(7)(C)) and shall not include nonrecurring lump-sum income and income deemed or allocated to the household under such part.

[(E) In computing household income for purposes of determining monthly allotments, all eligible households shall be allowed the standard, earned income, excess shelter, and medical expense deductions provided under section 5(e) in lieu of any earned income disregards provided under section 402(a)(8) of the Social Security Act (42 U.S.C. 602(a)(8)). Alternatively, the Secretary may approve demonstration projects under which households without earned income are allowed such standard, excess shelter, and medical expense deductions, and household income for households with earned income is computed using such deductions and the earned income disregards provided under section 402(a)(8) of the Social Security Act to the extent that the Secretary determines they are consistent with the purposes of the demonstration projects required under this subsection.

[(F) Uninterrupted food stamp assistance shall be provided to households who become ineligible to receive the assistance under this subsection but are determined otherwise eligible for food stamp assistance and to households receiving food stamp assistance other than under this subsection who are determined eligible under this subsection.

[(G) Any other requirements and administrative procedures equivalent to those applicable under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may be used in implementing the demonstration projects required under this subsection, if the Secretary determines that the requirements or procedures further the purposes of this subsection and do not undermine program integrity.

[(3) In establishing the projects, the Secretary shall solicit proposals from, and consult with, interested State and local agencies and shall consult with the Secretary of Health and Human Services on waivers of Federal rules under part A of title IV of the Social Security Act that would assist in carrying out the projects required under this subsection.

[(4) Not later than six months after termination of any project, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Ag-

riculture, Nutrition, and Forestry of the Senate evaluating the results of the demonstration projects established under this subsection, including evaluations of the effects on recipients and administrators.

[(j)] (i)(1)(A) Subject to the availability of funds specifically appropriated to carry out this subsection and subject to the other provisions of this subsection, during each of fiscal years 1992 through 2002, the Secretary shall make grants competitively awarded to public or private nonprofit organizations to fund food stamp outreach demonstration projects (hereinafter in this subsection referred to as the “projects”) and related evaluations in areas of the United States to increase participation by eligible low-income households in the food stamp program. The total amount of grants provided during a fiscal year may not exceed \$5,000,000. Funds appropriated to carry out this subsection shall be used in the year during which the funds are appropriated. Not more than 20 percent of the funds appropriated to carry out this subsection shall be used for evaluations.

\* \* \* \* \*

[(k)] (j) The Secretary shall conduct, under such terms and conditions as the Secretary shall prescribe, for a period not to exceed 4 years, projects to test allowing not more than 11,000 eligible households, in the aggregate, to accumulate resources up to \$10,000 each (which shall be excluded from consideration as a resource) for later expenditure for a purpose directly related to improving the education, training, or employability (including self-employment) of household members, for the purchase of a home for the household, for a change of the household’s residence, or for making major repairs to the household’s home.

[(l)] (k) The Secretary shall use up to \$4,000,000 of the funds provided in advance in appropriations Acts for projects authorized by this section to conduct demonstration projects in which State or local food stamp agencies test innovative ideas for working with State or local law enforcement agencies to investigate and prosecute coupon trafficking.

(l) *RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.*—*The Secretary may conduct research on the effects and costs of a State program carried out under section 27.*

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 18. (a)(1) To carry out this Act, there are authorized to be appropriated such sums as are necessary for each of the fiscal years [1991 through 1997] *1996 through 2002*. Not to exceed one-fourth of 1 per centum of the previous year’s appropriation is authorized in each such fiscal year to carry out the provisions of section 17 of this Act, subject to paragraph (3). The Secretary shall, by the fifteenth day of each month, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the Secretary’s best estimate of the second preceding month’s expenditure, including administrative costs, as well as the cumulative totals for the fiscal year. In each monthly report, the Secretary shall also state whether there is reason to believe that sup-

plemental appropriations will be needed to support the operation of the program through the end of the fiscal year.

\* \* \* \* \*

#### WORKFARE

SEC. 20. (a) \* \* \*

\* \* \* \* \*

[(f) In the event that any person fails to comply with the requirements of this section, neither that person nor the household to which that person belongs shall be eligible to participate in the food stamp program for two months, unless that person or another person in the household satisfies all outstanding workfare obligations prior to the end of the two-month disqualification period.]

(f) *DISQUALIFICATION.*—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.

\* \* \* \* \*

#### SEC. 26. SIMPLIFIED FOOD STAMP PROGRAM.

(a) *DEFINITION OF FEDERAL COSTS.*—In this section, the term “Federal costs” does not include any Federal costs incurred under section 17.

(b) *ELECTION.*—Subject to subsection (d), a State may elect to carry out a Simplified Food Stamp Program (referred to in this section as a “Program”), statewide or in a political subdivision of the State, in accordance with this section.

(c) *OPERATION OF PROGRAM.*—If a State elects to carry out a Program, within the State or a political subdivision of the State—

(1) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program; and

(2) subject to subsection (f), benefits under the Program shall be determined under rules and procedures established by the State under—

(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(B) the food stamp program (other than section 27); or

(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the food stamp program (other than section 27).

(d) *APPROVAL OF PROGRAM.*—

(1) *STATE PLAN.*—A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

(2) *APPROVAL OF PLAN.*—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

(A) complies with this section; and

(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.

(e) *INCREASED FEDERAL COSTS.*—

(1) *DETERMINATION.*—During each fiscal year and not later than 90 days after the end of each fiscal year, the Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this Act above the Federal costs incurred under the food stamp program in operation in the State or political sub-division of the State for the fiscal year prior to the implementation of the Program, adjusted for any changes in—

(A) participation;

(B) the income of participants in the food stamp program that is not attributable to public assistance; and

(C) the thrifty food plan under section 3(o).

(2) *NOTIFICATION.*—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year or any portion of any fiscal year, the Secretary shall notify the State not later than 30 days after the Secretary makes the determination under paragraph (1).

(3) *ENFORCEMENT.*—

(A) *CORRECTIVE ACTION.*—Not later than 90 days after the date of a notification under paragraph (2), the State shall submit a plan for approval by the Secretary for prompt corrective action that is designed to prevent the Program from increasing Federal costs under this Act.

(B) *TERMINATION.*—If the State does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency operating the Program and the State agency shall be ineligible to operate a future Program.

(f) *RULES AND PROCEDURES.*—

(1) *IN GENERAL.*—In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or political subdivision under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under the food stamp program.

(2) *STANDARDIZED DEDUCTIONS.*—In operating a Program, a State or political subdivision of a State may standardize the deductions provided under section 5(e). In developing the standardized deduction, the State shall consider the work expenses, dependent care costs, and shelter costs of participating households.

(3) *REQUIREMENTS.*—In operating a Program, a State or political subdivision shall comply with the requirements of—

(A) subsections (a) through (g) of section 7;

(B) section 8(a) (except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));

(C) subsection (b) and (d) of section 8;

(D) subsections (a), (c), (d), and (n) of section 11;

(E) paragraphs (8), (12), (16), (18), (20), (24), and (25) of section 11(e);

(F) section 11(e)(10) (or a comparable requirement established by the State under a State program funded under

part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

(G) section 16.

(4) *LIMITATION ON ELIGIBILITY.*—Notwithstanding any other provision of this section, a household may not receive benefits under this section as a result of the eligibility of the household under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.

**SEC. 27. STATE FOOD ASSISTANCE BLOCK GRANT.**

(a) *DEFINITIONS.*—In this section:

(1) *FOOD ASSISTANCE.*—The term “food assistance” means assistance that may be used only to obtain food, as defined in section 3(g).

(2) *STATE.*—The term “State” means each of the 50 States, the District of Columbia, Guam, and the Virgin Islands of the United States.

(b) *ESTABLISHMENT.*—The Secretary shall establish a program to make grants to States in accordance with this section to provide—

(1) food assistance to needy individuals and families residing in the State; and

(2) funds for administrative costs incurred in providing the assistance.

(c) *ELECTION.*—

(1) *IN GENERAL.*—A State may annually elect to participate in the program established under subsection (b) if the State—

(A) has fully implemented an electronic benefit transfer system that operates in the entire State;

(B) has a payment error rate under section 16(c) that is not more than 6 percent as announced most recently by the Secretary; or

(C) has a payment error rate in excess of 6 percent and agrees to contribute non-Federal funds for the fiscal year of the grant, for benefits and administration of the State’s food assistance program, the amount determined under paragraph (2).

(2) *STATE MANDATORY CONTRIBUTIONS.*—

(A) *IN GENERAL.*—In the case of a State that elects to participate in the program under paragraph (1)(C), the State shall agree to contribute, for a fiscal year, an amount equal to—

(i) the benefits issued in the State; multiplied by

(ii) the payment error rate of the State; minus

(B)(i) the benefits issued in the State; multiplied by

(ii) 6 percent.

(B) *DETERMINATION.*—Notwithstanding sections 13 and 14, the calculation of the contribution shall be based solely on the determination of the Secretary of the payment error rate.

(C) *DATA.*—For purposes of implementing subparagraph (A) for a fiscal year, the Secretary shall use the data for the most recent fiscal year available.

(3) *ELECTION LIMITATION.*—

(A) *RE-ENTERING FOOD STAMP PROGRAM.*—A State that elects to participate in the program under paragraph (1) may in a subsequent year decline to elect to participate in the program and instead participate in the food stamp program in accordance with the other sections of this Act.

(B) *LIMITATION.*—Subsequent to re-entering the food stamp program under subparagraph (A), the State shall only be eligible to participate in the food stamp program in accordance with the other sections of this Act and shall not be eligible to elect to participate in the program established under subsection (b).

(4) *PROGRAM EXCLUSIVE.*—

(A) *IN GENERAL.*—A State that is participating in the program established under subsection (b) shall not be subject to, or receive any benefit under, this Act except as provided in this section.

(B) *CONTRACT WITH FEDERAL GOVERNMENT.*—Nothing in this section shall prohibit a State from contracting with the Federal Government for the provision of services or materials necessary to carry out a program under this section.

(d) *LEAD AGENCY.*—A State desiring to receive a grant under this section shall designate, in an application submitted to the Secretary under subsection (e)(1), an appropriate State agency responsible for the administration of the program under this section as the lead agency.

(e) *APPLICATION AND PLAN.*—

(1) *APPLICATION.*—To be eligible to receive assistance under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by regulation require, including—

(A) an assurance that the State will comply with the requirements of this section;

(B) a State plan that meets the requirements of paragraph (3); and

(C) an assurance that the State will comply with the requirements of the State plan under paragraph (3).

(2) *ANNUAL PLAN.*—The State plan contained in the application under paragraph (1) shall be submitted for approval annually.

(3) *REQUIREMENTS OF PLAN.*—

(A) *LEAD AGENCY.*—The State plan shall identify the lead agency.

(B) *USE OF BLOCK GRANT FUNDS.*—The State plan shall provide that the State shall use the amounts provided to the State for each fiscal year under this section—

(i) to provide food assistance to needy individuals and families residing in the State, other than residents of institutions who are ineligible for food stamps under section 3(i); and

(ii) to pay administrative costs incurred in providing the assistance.

(C) *GROUPS SERVED.*—The State plan shall describe how and to what extent the program will serve specific groups of individuals and families and how the treatment will differ from treatment under the food stamp program under the other sections of this Act of the individuals and families, including—

- (i) elderly individuals and families;
- (ii) migrants or seasonal farmworkers;
- (iii) homeless individuals and families;
- (iv) individuals and families who live in institutions eligible under section 3(i);
- (v) individuals and families with earnings; and
- (vi) members of Indian tribes or tribal organizations.

(D) *ASSISTANCE FOR ENTIRE STATE.*—The State plan shall provide that benefits under this section shall be available throughout the entire State.

(E) *NOTICE AND HEARINGS.*—The State plan shall provide that an individual or family who applies for, or receives, assistance under this section shall be provided with notice of, and an opportunity for a hearing on, any action under this section that adversely affects the individual or family.

(F) *ASSESSMENT OF NEEDS.*—The State plan shall assess the food and nutrition needs of needy persons residing in the State.

(G) *ELIGIBILITY STANDARDS.*—The State plan shall describe the income, resource, and other eligibility standards that are established for the receipt of assistance under this section.

(H) *DISQUALIFICATION OF FLEEING FELONS.*—The State plan shall provide for the disqualification of any individual who would be disqualified from participating in the food stamp program under section 6(k).

(I) *RECEIVING BENEFITS IN MORE THAN 1 JURISDICTION.*—The State plan shall establish a system for the exchange of information with other States to verify the identity and receipt of benefits by recipients.

(J) *PRIVACY.*—The State plan shall provide for safeguarding and restricting the use and disclosure of information about any individual or family receiving assistance under this section.

(K) *OTHER INFORMATION.*—The State plan shall contain such other information as may be required by the Secretary.

(4) *APPROVAL OF APPLICATION AND PLAN.*—The Secretary shall approve an application and State plan that satisfies the requirements of this section.

(f) *NO INDIVIDUAL OR FAMILY ENTITLEMENT TO ASSISTANCE.*—Nothing in this section—

(1) entitles any individual or family to assistance under this section; or

(2) limits the right of a State to impose additional limitations or conditions on assistance under this section.



(g) *BENEFITS FOR ALIENS.*—

(1) *ELIGIBILITY.*—No individual who is an alien shall be eligible to receive benefits under a State plan approved under subsection (e)(4) if the individual is not eligible to participate in the food stamp program due to the alien status of the individual.

(2) *INCOME.*—The State plan shall provide that the income of an alien shall be determined in accordance with section 5(i).

(h) *EMPLOYMENT AND TRAINING.*—

(1) *WORK REQUIREMENTS.*—No individual or household shall be eligible to receive benefits under a State plan funded under this section if the individual or household is not eligible to participate in the food stamp program under subsection (d) or (o) of section 6.

(2) *WORK PROGRAMS.*—Each State shall implement an employment and training program in accordance with the terms and conditions of section 6(d)(4) for individuals under the program and shall be eligible to receive funding under section 16(h).

(i) *ENFORCEMENT.*—

(1) *REVIEW OF COMPLIANCE WITH STATE PLAN.*—The Secretary shall review and monitor State compliance with this section and the State plan approved under subsection (e)(4).

(2) *NONCOMPLIANCE.*—

(A) *IN GENERAL.*—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan approved under subsection (e)(4); or

(ii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section;

the Secretary shall notify the State of the finding and that no further grants will be made to the State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further grants to the State will be made with respect to the program or activity) until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

(B) *OTHER PENALTIES.*—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to, or in lieu of, imposing the penalties described in subparagraph (A), impose other appropriate penalties, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

(C) *NOTICE.*—The notice required under subparagraph (A) shall include a specific identification of any additional penalty being imposed under subparagraph (B).

(3) *ISSUANCE OF REGULATIONS.*—The Secretary shall establish by regulation procedures for—

(A) receiving, processing, and determining the validity of complaints made to the Secretary concerning any failure of a State to comply with the State plan or any requirement of this section; and

(B) imposing penalties under this section.

(j) *GRANT.*—

(1) *IN GENERAL.*—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under subsection (e)(4) an amount that is equal to the grant of the State under subsection (m) for the fiscal year.

(2) *METHOD OF GRANT.*—The Secretary shall make a grant to a State for a fiscal year under this section by issuing 1 or more letters of credit for the fiscal year, with necessary adjustments on account of overpayments or underpayments, as determined by the Secretary.

(3) *SPENDING OF GRANTS BY STATE.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), a grant to a State determined under subsection (m)(1) for a fiscal year may be expended by the State only in the fiscal year.

(B) *CARRYOVER.*—The State may reserve up to 10 percent of a grant determined under subsection (m)(1) for a fiscal year to provide assistance under this section in subsequent fiscal years, except that the reserved funds may not exceed 30 percent of the total grant received under this section for a fiscal year.

(4) *FOOD ASSISTANCE AND ADMINISTRATIVE EXPENDITURES.*—In each fiscal year, not more than 6 percent of the Federal and State funds required to be expended by a State under this section shall be used for administrative expenses.

(5) *PROVISION OF FOOD ASSISTANCE.*—A State may provide food assistance under this section in any manner determined appropriate by the State, such as electronic benefit transfer limited to food purchases, coupons limited to food purchases, or direct provision of commodities.

(k) *QUALITY CONTROL.*—Each State participating in the program established under this section shall maintain a system in accordance with, and shall be subject to section 16(c), including sanctions and eligibility for incentive payment under section 16(c), adjusted for State specific characteristics under regulations issued by the Secretary.

(l) *NONDISCRIMINATION.*—

(1) *IN GENERAL.*—The Secretary shall not provide financial assistance for any program, project, or activity under this section if any person with responsibilities for the operation of the program, project, or activity discriminates with respect to the program, project, or activity because of race, religion, color, national origin, sex, or disability.

(2) *ENFORCEMENT.*—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).

*(m) GRANT CALCULATION.—**(1) STATE GRANT.—*

*(A) IN GENERAL.—Except as provided in subparagraph (B), from the amounts made available under section 18 for each fiscal year, the Secretary shall provide a grant to each State participating in the program established under this section an amount that is equal to the sum of—*

*(i) the greater of, as determined by the Secretary—*

*(I) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1994; or*

*(II) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1992 through 1994; and*

*(ii) the greater of, as determined by the Secretary—*

*(I) the total amount received by the State for administrative costs under section 16(a) (not including any adjustment under section 16(c)) for fiscal year 1994; or*

*(II) the average per fiscal year of the total amount received by the State for administrative costs under section 16(a) (not including any adjustment under section 16(c)) for each of fiscal years 1992 through 1994.*

*(B) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of grants to which States would otherwise be entitled for a fiscal year under subparagraph (A) will exceed the amount of funds that will be made available to provide the grants for the fiscal year, the Secretary shall reduce the grants made to States under this subsection, on a pro rata basis, to the extent necessary.*

*(2) REDUCTION.—The Secretary shall reduce the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C).*

**SEC. 28. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.**

*(a) PURCHASE OF COMMODITIES.—From amounts appropriated under this Act, for each of fiscal years 1997 through 2002, the Secretary shall purchase \$300,000,000 of a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled “An Act to amend the Agricultural Adjustment Act, and for other purposes”, approved August 24, 1935 (7 U.S.C. 612c), and distribute the commodities to States for distribution in accordance with section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note).*

*(b) BASIS FOR COMMODITY PURCHASES.—In purchasing commodities under subsection (a), the Secretary shall, to the extent practicable and appropriate, make purchases based on—*

*(1) agricultural market conditions;*

*(2) preferences and needs of States and distributing agencies; and*

(3) *preferences of recipients.*

## SECTION 2605 OF THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981

### APPLICATIONS AND REQUIREMENTS

SEC. 2605. (a) \* \* \*

\* \* \* \* \*

(f) **[(1)]** Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, the amount of any home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under this title shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, **[food stamps,]** public assistance, or welfare programs.

**[(2)]** For purposes of paragraph (1) of this subsection and for purposes of determining any excess shelter expense deduction under section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e))—

**[(A)]** the full amount of such payments or allowances shall be deemed to be expended by such household for heating or cooling expenses, without regard to whether such payments or allowances are provided directly to, or indirectly for the benefit of, such household; and

**[(B)]** no distinction may be made among households on the basis of whether such payments or allowances are provided directly to, or indirectly for the benefit of, any of such households.]

## EMERGENCY FOOD ASSISTANCE ACT OF 1983

\* \* \* \* \*

### TITLE II—EMERGENCY FOOD ASSISTANCE ACT OF 1983

\* \* \* \* \*

#### **[ELIGIBILITY RECIPIENT AGENCIES]**

**[SEC. 201A.** As used in this Act the term “eligible recipient agencies” means public or nonprofit organizations that administer—

**[(1)]** activities and projects providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons (including the activities and projects of charitable institutions, food banks, hunger centers, soup kitchens, and similar public or private nonprofit eligible recipient agencies) hereinafter in this title referred to as “emergency feeding organizations”;

**[(2)]** school lunch programs, summer camps for children, and other child nutrition programs providing food service;

[(3) nutrition projects operating under the Older Americans Act of 1965, including congregate nutrition sites and providers of home-delivered meals;

[(4) activities and projects that are supported under section 4 of the Agricultural and Consumer Protection Act of 1973;

[(5) activities of charitable institutions, including hospitals and retirement homes, to the extent that needy persons are served; or

[(6) disaster relief programs;

and that have been designated by the appropriate State agency, or by the Secretary, and approved by the Secretary for participation in the program established under this Act.

**[AVAILABILITY OF CCC FLOUR, CORNMEAL, AND CHEESE**

**[SEC. 202A. Notwithstanding any other provision of law—**

**[(a)(1) To the extent provided in advance in an appropriation Act, in fiscal year 1988, flour, cornmeal, and cheese acquired by the Commodity Credit Corporation that are in excess of quantities needed to—**

**[(A) carry out other domestic donation programs,**

**[(B) meet other domestic obligations (including quantities needed to carry out a payment-in-kind acreage diversion program),**

**[(C) meet international market development and food aid commitments, and**

**[(D) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938, the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act,**

shall be made available as provided in paragraph (2).

**[(2) The Secretary shall make such excess flour, cornmeal, and cheese available in any State, in addition to the normal allotment of such commodities (adjusted by any reallocation) for fiscal year 1988 under this Act, at the request of the chief executive officer of such State who certifies to the Secretary that—**

**[(A)(i) individuals in such State who are eligible to receive flour, cornmeal, and cheese under this Act are not receiving such commodities distributed under other provisions of this Act, or**

**[(ii) the number of unemployed individuals in such State has increased during the most recent 90-day period for which unemployment statistics are available prior to the date of the certification is made, and**

**[(B) the distribution of flour, cornmeal, and cheese under this section in such State will not substantially displace the commercial sale of such commodities in such State.**

**[(b) Flour, cornmeal, and cheese made available under this section by the Secretary shall be made available without charge or credit in fiscal year 1988, in a usable form, for use by eligible recipient agencies in a State.**

**[(c) The amount of cheese made available under this section in fiscal year 1988 shall not exceed 14,000,000 pounds.**

[(d) Whenever the Secretary receives a request submitted under subsection (a)(2), the Secretary shall immediately notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that such request was received.]

**SEC. 201A. DEFINITIONS.**

*In this Act:*

(1) **ADDITIONAL COMMODITIES.**—*The term “additional commodities” means commodities made available under section 214 in addition to the commodities made available under sections 202 and 203D.*

(2) **AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.**—*The term “average monthly number of unemployed persons” means the average monthly number of unemployed persons in each State in the most recent fiscal year for which information concerning the number of unemployed persons is available, as determined by the Bureau of Labor Statistics of the Department of Labor.*

(3) **ELIGIBLE RECIPIENT AGENCY.**—*The term “eligible recipient agency” means a public or nonprofit organization—*

*(A) that administers—*

*(i) an emergency feeding organization;*

*(ii) a charitable institution (including a hospital and a retirement home, but excluding a penal institution) to the extent that the institution serves needy persons;*

*(iii) a summer camp for children, or a child nutrition program providing food service;*

*(iv) a nutrition project operating under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), including a project that operates a congregate nutrition site and a project that provides home-delivered meals; or*

*(v) a disaster relief program;*

*(B) that has been designated by the appropriate State agency, or by the Secretary; and*

*(C) that has been approved by the Secretary for participation in the program established under this Act.*

(4) **EMERGENCY FEEDING ORGANIZATION.**—*The term “emergency feeding organization” means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.*

(5) **FOOD BANK.**—*The term “food bank” means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.*

(6) *FOOD PANTRY.*—The term “food pantry” means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

(7) *POVERTY LINE.*—The term “poverty line” has the same meaning given the term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(8) *SOUP KITCHEN.*—The term “soup kitchen” means a public or charitable institution that, as an integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

(9) *TOTAL VALUE OF ADDITIONAL COMMODITIES.*—The term “total value of additional commodities” means the actual cost of all additional commodities made available under section 214 that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

(10) *VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.*—The term “value of additional commodities allocated to each State” means the actual cost of additional commodities made available under section 214 and allocated to each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

#### **SEC. 202A. STATE PLAN.**

(a) *IN GENERAL.*—To receive commodities under this Act, a State shall submit a plan of operation and administration every 4 years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

(b) *REQUIREMENTS.*—Each plan shall—

(1) designate the State agency responsible for distributing the commodities received under this Act;

(2) set forth a plan of operation and administration to expeditiously distribute commodities under this Act;

(3) set forth the standards of eligibility for recipient agencies; and

(4) set forth the standards of eligibility for individual or household recipients of commodities, which shall require—

(A) individuals or households to be comprised of needy persons; and

(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of applying for assistance.

(c) *STATE ADVISORY BOARD.*—The Secretary shall encourage each State receiving commodities under this Act to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this Act in the State.

\* \* \* \* \*

#### **FEDERAL AND STATE RESPONSIBILITIES**

**SEC. 203B.** (a) The Secretary shall, as expeditiously as possible, provide the commodities made available under this Act in

such quantities as can be used without waste to State agencies designated by the Governor or other appropriate State official for distribution to eligible recipient agencies, except that the Secretary may provide such commodities directly to eligible recipient agencies and to private companies that process such commodities for eligible recipient agencies under section [203 and 203A of this Act] 203A. Notwithstanding any other provision of this Act, in the distribution of commodities under this Act, each State agency shall have the option to give priority to existing food bank networks and other organizations whose ongoing primary function is to facilitate the distribution of food to low-income households, including food from sources other than the Department of Agriculture.

\* \* \* \* \*

#### AUTHORIZATION AND APPROPRIATIONS

SEC. 204. (a)(1) There are authorized to be appropriated \$50,000,000 for each of the fiscal years 1991 through 2002, for the Secretary to make available to the States [for State and local payments for costs associated with the distribution of commodities by emergency feeding organizations under this title] *to pay for the direct and indirect administrative costs of the State related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this Act and commodities secured from other sources.* Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis, dividing such funds among the States in the same proportions as the commodities distributed under this [title] Act for such fiscal year are divided among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States. [States may also use funds provided under this paragraph to pay for the costs associated with the distribution of commodities under the program authorized under section 110 of the Hunger Prevention Act of 1988, and to pay for the costs associated with the distribution of additional commodities provided pursuant to section 214.]

(2) Each State shall make available to emergency feeding organizations in the State not less than 40 per centum of the funds provided as authorized in paragraph (1) that it has been allocated for a fiscal year, as necessary to pay for, or provide advance payments to cover, the direct expenses of the emergency feeding organizations for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such organizations. As used in this paragraph, the term "direct expenses" includes costs of transporting, storing, handling, repackaging, processing, and distributing commodities incurred after they are received by the organization; costs associated with determinations of eligibility, verification, and documentation; costs of providing information to persons receiving commodities under this Act concerning the appropriate storage and preparation of such commodities; and costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this [title] Act. If a State makes a payment, using State funds, to cover direct expenses



of emergency feeding organizations, the amount of such payment shall be counted toward the amount a State must make available for direct expenses of emergency feeding organizations under this paragraph.

\* \* \* \* \*

(4)(A) Except as provided in subparagraph (B), effective January 1, 1987, to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

- (i) the amount of such funds so received; and
- (ii) any part of the amount allocated to the State and paid by the State—
  - (I) to emergency feeding organizations; or
  - (II) for the direct expenses of such organizations; for use in carrying out this [title] Act.

\* \* \* \* \*

#### REGULATIONS

##### SEC. 210. (a) \* \* \*

\* \* \* \* \*

(e) The Secretary is authorized to issue final regulations without first issuing proposed regulations [(except as otherwise provided for in section 214(j))] for public comment in order to carry out the provisions of sections 213 and 214. If final regulations are issued without such prior public comment the Secretary shall permit public comment on such regulations, consider pertinent comments, and make modifications of such regulations as appropriate not later than 1 year after the date of enactment of this subsection. Such final and modified regulations shall be accompanied by a statement of the basis and purpose for such regulations.

\* \* \* \* \*

#### [PROGRAM TERMINATION

[SEC. 212. Except for section 207, this Act shall terminate on September 30, 2002.]

\* \* \* \* \*

#### SEC. 214. REQUIRED PURCHASES OF COMMODITIES.

[(a) PURPOSE.—It is the purpose of this section to establish a formula so that the amount, measured by their value, of additional commodities that are to be allocated to each State can be precisely calculated for fiscal years 1991 through 2002. The share of commodities, as measured by their value, to be allocated to each State shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State.

[(b) DEFINITIONS.—As used in this section—

[(1) ADDITIONAL COMMODITIES.—The term “additional commodities” means commodities purchased under this section in

addition to the commodities otherwise made available under sections 202 and 203D(a).

[(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term “average monthly number of unemployed persons” refers to the average monthly number of unemployed persons within each State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

[(3) POVERTY LINE.—The term “poverty line” has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

[(4) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term “total value of additional commodities” means the actual cost (including the distribution and processing costs incurred by the Secretary), as paid by the Secretary, for all additional commodities purchased under subsection (e).

[(5) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term “value of additional commodities allocated to each State” means the actual cost for additional commodities (including the distribution and processing costs incurred by the Secretary) as paid by the Secretary under this section and allocated to such State.

[(c) PURCHASE OF COMMODITIES.—The Secretary shall purchase a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled “An Act to amend the Agricultural Adjustment Act, and for other purposes”, approved August 24, 1935 (7 U.S.C. 612c note), to supplement the commodities otherwise provided under the program authorized by this Act.

[(d) TYPES AND VARIETIES.—The Secretary shall, to the extent practicable and appropriate, purchase types and varieties of commodities—

[(1) with high nutrient density per calorie;

[(2) that are easily and safely stored;

[(3) that are convenient to use and consume;

[(4) that are desired by recipient agencies; and

[(5) that meet the requirement imposed by section 203C(a).

[(e) AMOUNTS.—To carry out this section there are authorized to be appropriated \$175,000,000 for fiscal year 1991, \$190,000,000 for fiscal year 1992, and \$220,000,000 for each of the fiscal years 1993 through 2002 to purchase, process, and distribute additional commodities under this section. Any amounts provided for fiscal years 1991 through 2002 shall be available only to the extent and in such amounts as are provided in advance in appropriations Acts.

[(f)] (a) MANDATORY ALLOTMENTS.—In each fiscal year, the Secretary shall allot—

(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of

persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

(2) 40 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

[(g)] (b) REALLOCATION.—The Secretary shall notify each State of the amount of the additional commodities that such State is allotted to receive under [subsection (f) or subsection (j) if applicable,] subsection (a) and each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute the amount the State was allocated to receive under the formula prescribed in [subsection (f)] subsection (a) but declines to accept. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year as the State determines is appropriate and the Secretary shall reallocate and distribute such allocation. In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county, or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities to which each such unaffected State is entitled to States containing areas adversely affected by the disaster.

[(h) ADMINISTRATION.—Subject to subsections (e) and (f), or subsection (j) if applicable, purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All such commodities purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allotments calculated under subsection (f), or reallocated under subsection (g), or calculated under subsection (j) if applicable, before the end of such fiscal year. Each State shall be entitled to receive that value of additional commodities that results from the application of the formula set forth in this section to the total value of additional commodities.]

(c) ADMINISTRATION.—

(1) *IN GENERAL.*—*Commodities made available for each fiscal year under this section shall be delivered at reasonable intervals to States based on the grants calculated under subsection (a), or reallocated under subsection (b), before December 31 of the following fiscal year.*

(2) *ENTITLEMENT.*—*Each State shall be entitled to receive the value of additional commodities determined under subsection (a).*

[(i)] (d) MAINTENANCE OF EFFORT.—If a State uses its own funds to provide commodities or services to organizations receiving

funds or services under this section, such State shall not diminish the level of support it provides to such organizations [or reduce the amount of funds available for other nutrition programs in the State in each fiscal year].

[(j) NEW FORMULA.—Notwithstanding the provisions of this section that set forth the specific formula for allocating additional commodities to each State, the Secretary is authorized to promulgate a different precise formula, after prior notice and comment as required by section 553 of title 5, United States Code, only to the extent that—

[(1) any such formula is effective at the outset of, and throughout any given fiscal year;

[(2) any such formula can be used to precisely calculate the amount of commodities to be made available to each State by the Secretary for each fiscal year; and

[(3) such formula provides that each State is entitled to receive that value of additional commodities which results from the application of such formula to the total value of additional commodities.]

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## SECTION 1571 OF THE FOOD SECURITY ACT OF 1985

### [REPORT

[SEC. 1571. Not later than April 1, 1987, the Secretary of Agriculture shall report to Congress on the activities of the program conducted under the Temporary Emergency Food Assistance Act of 1983. Such report shall include information on—

[(1) the volume and types of commodities distributed under the program;

[(2) the types of State and local agencies receiving commodities for distribution under the program;

[(3) the populations served under the program and their characteristics;

[(4) the Federal, State, and local costs of commodity distribution operations under the program (including transportation, storage, refrigeration, handling, distribution, and administrative costs); and

[(5) the amount of Federal funds provided to cover State and local costs under the program.]

## SECTION 3 OF THE CHARITABLE ASSISTANCE AND FOOD BANK ACT OF 1987

### [SEC. 3. FOOD BANK DEMONSTRATION PROJECT.

[(a) The Secretary of Agriculture shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled “An Act to amend the Agricultural Adjustment Act, and for other purposes”, approved August 24, 1935, as amended (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or

any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

[(b) Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the project shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.]

[(c) The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.]

[(d) This section shall be effective for the period beginning on the date of enactment of this Act and ending on December 31, 1990.]

[(e) The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.]

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## HUNGER PREVENTION ACT OF 1988

\* \* \* \* \*

## TITLE I—EMERGENCY HUNGER PREVENTION

\* \* \* \* \*

### Subtitle B—Soup Kitchens and Other Emergency Food Aid

#### [(SEC. 110. SOUP KITCHENS AND FOOD BANKS.]

[(a) PURPOSE.—It is the purpose of this section to establish a formula so that the amount, measured by their value, of additional commodities that are to be provided to each State for redistribution to soup kitchens and food banks can be precisely calculated for fiscal years 1989 through 2002. The share of commodities, as measured by their value, to be provided to each State shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State.]

[(b) DEFINITIONS.—As used in this section—

[(1) ADDITIONAL COMMODITIES.—The term “additional commodities” means commodities purchased under this section in addition to the commodities otherwise made available to soup kitchens and food banks providing nutrition assistance to relieve situations of emergency and distress.

[(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term “average monthly number of unemployed persons” refers to the average monthly number of unemployed persons within each State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

[(3) FOOD BANKS.—The term “food bank” refers to public and charitable institutions that maintain an established operation involving the provision of food or edible commodities, or the products thereof, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that provide meals or food to needy persons on a regular basis as an integral part of their normal activities.

[(4) FOOD PANTRY.—The term “food pantry” means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

[(5) POVERTY LINE.—The term “poverty line” has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

[(6) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

[(7) SOUP KITCHENS.—The term “soup kitchens” refers to public and charitable institutions that maintain an established feeding operation to provide food to needy homeless persons on a regular basis as an integral part of their normal activities.

[(8) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term “total value of additional commodities” means the actual cost (including the processing and distribution costs of the Secretary), as paid by the Secretary, for all additional commodities purchased under subsection (c).

[(9) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO A STATE.—The term “value of additional commodities allocated to a State” means the actual cost for additional commodities (including the processing and distribution costs of the Secretary) as paid by the Secretary for commodities purchased under this section and allocated to such State.

[(c) AMOUNTS.—

[(1) 1991 FISCAL YEAR.—During fiscal year 1991, the Secretary shall spend \$32,000,000, to purchase, process, and distribute additional commodities to States for distribution to soup kitchens and food banks within a given State that provide nutrition assistance to relieve situations of emergency and distress through the provision of food and meals to needy persons and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy persons.

[(2) SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated \$40,000,000 for each of the fiscal years 1992 through 2002 to purchase, process, and distribute additional commodities to States for distribution to soup kitchens and food banks within a given State that provide nutrition assistance to relieve situations of emergency and distress through the provision of food and meals to needy persons and to other institutions that can demonstrate, in accordance with subsection (j)(3), that they serve predominantly needy persons. Any amounts provided for fiscal years 1992 through 2002 shall be available only to the extent and in such amounts as are provided in advance in appropriations Acts.

[(3) FOOD PANTRIES.—In instances in which food banks do not operate within a given State, the State may distribute commodities to food pantries.

[(d) MANDATORY ALLOTMENTS.—In each fiscal year, the Secretary shall allot—

[(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

[(2) 40 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

[(e) ALLOCATION AND REALLOCATION.—

[(1) NOTIFICATION BY SECRETARY.—The Secretary shall notify each State of the amount of the allocation that the State is entitled to receive under subsection (d).

[(2) NOTIFICATION BY STATE.—

[(A) ACCEPTANCE AMOUNT.—A State shall promptly notify the Secretary of the amount of commodities that will be accepted by soup kitchens or food banks. In determining such amount, the State shall give priority to institutions that provide meals to homeless individuals.

[(B) LESS THAN FULL AMOUNT ACCEPTED.—A State shall promptly notify the Secretary if the State determines that it will not accept the full amount of the allocation under subsection (d) (or a portion thereof).

[(3) REALLOCATION.—Whenever the Secretary receives a notification under paragraph (2)(B), the Secretary shall reallocate and distribute the amount of such allocation (or any portion thereof) not accepted, in a fair and equitable manner among the States that accept the full amount of their respec-

tive allocations under subsection (d) and that have requested receipt of additional allocations.

[(f) ADMINISTRATION.—Subject to subsection (c), purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines to be appropriate within each fiscal year. All commodities purchased under subsection (c) within each fiscal year shall be provided to States prior to the end of each such fiscal year.

[(g) MAINTENANCE OF EFFORT.—If a State uses its own funds to provide commodities or services under this section, such State funds shall not be obtained from existing Federal or State programs.

[(h) INCREASED COMMODITY LEVELS AND MAINTENANCE OF EFFORT.—

[(1) INCREASED COMMODITY LEVELS.—Commodities provided under the amendments made by section 104 and under this section shall be in addition to the commodities otherwise provided (through commodity donations traditionally provided by the Secretary or the Commodity Credit Corporation) to emergency feeding organizations. The value of the commodity donations traditionally provided to such organizations shall not be diminished as a result of the purchases required by the amendments made by section 104 and this section.

[(2) FEDERAL MAINTENANCE.—The purchase of commodities required under the amendments made by section 104 and under this section, shall not be made in such a manner as to cause any reduction in the value of the bonus commodities that would otherwise be distributed, in the absence of section 104 and this section, to charitable institutions, or to any other domestic food assistance program, such as the programs authorized under the National School Lunch Act, the Child Nutrition Act of 1966, the Food Stamp Act of 1977, or sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973.

[(3) OTHER MAINTENANCE.—Local agencies receiving commodities purchased under this section shall provide an assurance to the State that donations of foodstuffs from other sources shall not be diminished as a result of the receipt of commodities under this section.

[(i) NEW FORMULA.—Notwithstanding the provisions of this section that set forth the specific formula for allocating additional commodities to each State, the Secretary is authorized to establish a different precise formula, after prior notice and comment as required by section 553 of title 5, United States Code, only to the extent that—

[(1) any such formula is effective at the outset of, and throughout any given fiscal year;

[(2) any such formula can be used to precisely calculate the amount of commodities to be made available to each State by the Secretary for each fiscal year; and

[(3) such formula provides that each State is entitled to receive that value of additional commodities which results from the application of such formula to the total value of additional commodities.



**[(j) PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.—**

**[(1) SOUP KITCHENS.—**In distributing commodities under this section, the distributing agency, under procedures determined appropriate by the distributing agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to soup kitchens and other like organizations that serve meals to homeless persons, and to food banks for distribution to such organizations.

**[(2) INSTITUTIONS THAT SERVE ONLY LOW-INCOME RECIPIENTS.—**If distributing agencies determine that they will not likely exhaust their allocation of commodities under this section through distribution to institutions referred to in paragraph (1), the distributing agencies shall make the remaining commodities available to food banks for distribution to institutions that distribute commodities to the needy. When such institutions distribute commodities to individuals for home consumption, eligibility for such commodities shall be determined through a means test as determined appropriate by the State distributing agency.

**[(3) OTHER INSTITUTIONS.—**If the distributing agency's commodity allocation is not likely to be exhausted after distribution under paragraphs (1) and (2) (as determined by the food bank), food banks may distribute the remaining commodities to institutions that serve meals to needy persons and do not employ a means test to determine eligibility for such meals, provided that the organizations have documented, to the satisfaction of the food bank, that the organizations do, in fact, serve predominantly needy persons.

**[(k) SETTLEMENT AND ADJUSTMENT OF CLAIMS.—**

**[(1) IN GENERAL.—**The Secretary or a designee of the Secretary shall have the authority to—

**[(A)** determine the amount of, settle, and adjust any claim arising under this section; and

**[(B)** waive such a claim if the Secretary determines that to do so will serve the purposes of this section.

**[(2) LITIGATION.—**Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.]

\* \* \* \* \*

## **TITLE II—NUTRITION IMPROVEMENTS**

\* \* \* \* \*

## **[Subtitle C—Food Processing and Distribution**

### **[SEC. 220. ENCOURAGEMENT OF FOOD PROCESSING AND DISTRIBUTION BY ELIGIBLE RECIPIENT AGENCIES.**

#### **[(a) SOLICITATION OF APPLICATIONS.—**

**[(1) IN GENERAL.—**Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall, to the extent that the Commodity Credit Corporation's inventory levels permit, solicit applications, in accordance with paragraph (2), for surplus commodities available for distribution under section 202 of the Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

**[(2) REQUIREMENTS.—**The solicitation by the Secretary of Agriculture under paragraph (1) shall be in the form of a request that any eligible recipient agency (as defined in section 201A of the Emergency Food Assistance Act of 1983) submit an application to the Secretary that shall include an assurance that such agency will—

**[(A)** process any agricultural commodity received in response to such application into end-use products suitable for distribution through the Emergency Food Assistance Program;

**[(B)** package such products for use by individual households; and

**[(C)** distribute such products to State agencies responsible for the administration of the Emergency Food Assistance Program, at no cost to the State agency, for distribution through the Emergency Food Assistance Program.

**[(3) PROHIBITION ON PAYMENT OF PROCESSING COSTS.—**Funds made available under section 204 of the Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) or funds of the Commodity Credit Corporation shall not be used to pay any costs incurred for the processing, storage, transportation or distribution of the commodities or end-use products prior to their delivery to the State agency.

#### **[(b) REVIEW OF APPLICATIONS.—**

**[(1) TIME OF REVIEW.—**Not later than 60 days after the Secretary of Agriculture receives an application solicited under subsection (a), the Secretary shall approve or disapprove such application.

**[(2) NOTICE OF DISAPPROVAL.—**If the Secretary disapproves the application submitted under subsection (a), the Secretary shall inform the applicant of the reasons for such disapproval.]

\* \* \* \* \*

## **TITLE V—DEMONSTRATION PROJECTS**

\* \* \* \* \*

**[SEC. 502. FOOD BANK DEMONSTRATION PROJECTS.]**

[(a) IN GENERAL.—The Secretary of Agriculture may carry out demonstration projects to provide and redistribute to needy individuals and families through community food banks and other charitable food banks—

[(1) agricultural commodities or the products thereof made available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); and

[(2) to the extent practicable, agricultural commodities or the products thereof made available under section 32 of the Act entitled “An Act to amend the Agricultural Adjustment Act, and for other purposes”, approved August 24, 1935 (7 U.S.C. 612c).

[(b) FOOD TYPES.—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and products thereof to be made available to community food banks under this section.

[(c) REPORT.—Not later than July 1, 1990, the Secretary shall submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report describing any demonstration projects carried out under this section. The report shall include an analysis and evaluation of the distribution and redistribution of food under the demonstration projects and the feasibility of expanding the projects to other community food banks.

[(d) TERMINATION.—The authority provided under this section shall terminate on September 30, 1990.

[(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$400,000 for each of the fiscal years 1989 through 1990.]

\* \* \* \* \*

## SECTION 1773 OF THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990

**SEC. 1773. COMMODITY DISTRIBUTION REFORM.**

(a) \* \* \*

\* \* \* \* \*

[(f) REPORT ON ENTITLEMENT COMMODITY PROCESSING.—

[(1) IN GENERAL.—Not later than January 1, 1992, the Comptroller General of the United States shall submit a report regarding processing of entitlement commodities used in child nutrition programs to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

[(2) CONSULTATION.—The Comptroller General shall consult with representatives of State and Federal commodity distribution authorities, local elected school authorities, local school food service authorities, and food processors with experience providing service to child nutrition programs regarding the scope and design of the report.

[(3) EVALUATION.—The report shall evaluate the extent to which—

[(A) processing of entitlement commodities occurs in the States;

[(B) governmental requirements for participation in the processing vary among States; and

[(C) entitlement commodity recipients are satisfied with access to and services provided through entitlement commodity processing.]]

## SECTION 904 OF THE ELECTRONIC FUND TRANSFER ACT

### § 904. Regulations

(a) \* \* \*

\* \* \* \* \*

[(d) In the event] (d) *APPLICABILITY TO SERVICE PROVIDERS OTHER THAN CERTAIN FINANCIAL INSTITUTIONS.*—

(1) *IN GENERAL.*—*In the event that electronic fund transfer services are made available to consumers by a person other than a financial institution holding a consumer's account, the Board shall by regulation assure that the disclosures, protections, responsibilities, and remedies created by this title are made applicable to such persons and services.*

(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 unem-*

*ployment benefits established by Federal, State, or  
local governments.*

## TITLE II—COMMITTEE ON COMMERCE

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PART 3—ENERGY ASSISTANCE

Sec. 2131. Energy assistance.

## Subtitle A—Restructuring Medicaid

**SEC. 2001. SHORT TITLE OF SUBTITLE.**

This subtitle may be cited as the “Medicaid Restructuring Act of 1996”.

**SEC. 2002. 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. 2003. 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 premiums and cost-sharing.
- “Sec. 1504. Description of process for developing capitation payment rates.
- “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.
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#### “PART C—ESTABLISHMENT AND AMENDMENT OF STATE PLANS

- “Sec. 1521. Description of strategic objectives and performance goals.
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- “Sec. 1571. Definitions.
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- “Sec. 1573. Description of treatment of Indian Health Service facilities.
- “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 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 and resource standards (as defined in paragraph (6)(C)) in the State, determined using the methodology for determining eligibility for aid under the

State plan under part A or part E of title IV (as in effect as of May 1, 1996).

“(2) GUARANTEED BENEFITS PACKAGE.—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:

“(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 (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).

“(H) Prepregnancy family planning services and supplies (as specified by the State).

“(I) Prenatal care.

“(J) Physician assistance services, pediatric and family nurse practitioner services and nurse midwife services.

“(K) EPSDT services (as defined in section 1571(e)) for individuals who are under the age of 21.

A State may establish criteria, including utilization review, and cost effectiveness of alternative covered services, for purposes of specifying the amount, duration, and scope of benefits provided under the State plan.

“(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 and resource standards are above the national average of the current AFDC income and resource 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 and resource standards for the current AFDC income and resource 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 ‘individuals and members of families who meet current AFDC income and resource 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 AND RESOURCE STANDARDS DEFINED.—In this subsection, the term ‘current AFDC income and resource standards’ means, with respect to a State, the income and resource 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 FAMILIES BECOMING INELIGIBLE FOR FAMILY ASSISTANCE DUE TO INCREASED EARNINGS FROM EMPLOYMENT OR COLLECTION OF CHILD SUPPORT.—A State plan shall provide that if any family becomes ineligible to receive assistance under the State program funded under part A of title IV as a result of increased earnings from employment or as a result of the collection or increased collection of child or spousal support, or a combination thereof, having 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 plan during the immediately succeeding 12-month period for so long as family income is less than the poverty line, and that the family will be appropriately notified of such eligibility.

“(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 in-

dividual, 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) ELIGIBILITY GUIDELINES FOR THE NON-GUARANTEED, NON-UMBRELLA POPULATION.—The general eligibility guidelines of the plan for eligible low-income individuals who are not covered under subsection (a) or (b) of section 1501 or under subsection (a) of this section.

“(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.

“(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.

“(2) CONDITIONS FOR GUARANTEES AND RELATION OF GUARANTEES TO FINANCING.—The guarantees of States required under subsection (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.

“(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) TRANSITIONAL PAYMENT FOR FEDERALLY-QUALIFIED HEALTH CENTER SERVICES AND RURAL HEALTH CLINIC SERVICES.—Each State plan shall provide that, for Federally-qualified health center services and rural health clinic services (as defined in section 1571(f)) furnished under the plan during the first 8 calendar quarters in which the plan is in effect and for which payment is made under the plan, payment shall be made for such services at a rate based on 100 percent of costs which are reasonable and related to the cost of furnishing such services or based on such other tests of reasonableness, as the Secretary prescribes in regulations under section 1833(a)(3), or, in the case of services to which those regulations do not apply, on the same methodology used under section 1833(a)(3).

“(e) 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.

“(f) SOLVENCY STANDARDS FOR CAPITATED HEALTH CARE ORGANIZATIONS.—

“(1) IN GENERAL.—A State may not contract with a capitated health care organization, as defined in section 1504(c)(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, 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 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 organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent.

“(g) FOR SERVICES PROVIDED AT FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—

“(1) IN GENERAL.—Subject to paragraph (2), 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 1861(aa)(2)) and Federally-qualified health centers (as defined in section 1861(aa)(4)), for eligible low-income individuals for a fiscal year is not less than 85 percent of the average annual expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 which were attributable to expenditures for medical assistance for rural health clinic services and Federally-qualified health center services (as defined in section 1905(l)).

“(2) ALTERNATIVE MINIMUM SET-ASIDES.—

“(A) IN GENERAL.—Beginning with fiscal year 2001, a State may provide in its State plan (through an amendment to the plan) for a lower percentage of expenditures than the minimum percentages specified in paragraph (1) if the State determines to the satisfaction of the Secretary that—

“(i) the health care needs of the low-income populations described in such paragraph who are eligible for medical assistance under the plan during the previous fiscal year can be reasonably met without the expenditure of the percentage otherwise required to be expended;

“(ii) the performance goals established under section 1521 relating to such population can reasonably be met with the expenditure of such lower percentage of funds; and

“(iii) the health care needs of eligible low-income individuals residing in medically underserved rural

areas can reasonably be met without the level of expenditure for such services otherwise required and the performance goals established under section 1521 relating to such individuals can reasonably be met with such lower level of expenditures.

“(B) PERIOD OF APPLICATION.—The determination under subparagraph (A) shall be made for such period as a State may request, but may not be made for a period of more than 3 consecutive Federal fiscal years (beginning with the first fiscal year for which the lower percentage is sought). A new determination must be made under such subparagraph for any subsequent period.

**“SEC. 1503. LIMITATIONS ON PREMIUMS AND COST-SHARING.**

“(a) LIMITATION ON PREMIUMS.—

“(1) NONE FOR GUARANTEED POPULATION.—The State plan shall not impose any enrollment fee, premium, or similar charge for eligible individuals described in subsection (a) or (b) of section 1501 or section 1502(a).

“(2) INCOME-RELATED FOR OTHER POPULATIONS.—The State plan may impose an enrollment fee, premium, or similar charge for eligible individuals not described in paragraph (1) if it is related to the individual’s income (and does not exceed 2 percent of the individual’s gross income).

“(b) LIMITATION ON COST-SHARING.—Subject to subsection (c)—

“(1) GUARANTEED POPULATIONS.—With respect to individuals covered under subsection (a) or (b) of section 1501 or section 1502, the State may not impose any cost-sharing with respect to items and services unless the amount is nominal in amount. For purposes of this paragraph, an amount is nominal if it does not exceed 6 percent of the amount otherwise payable, or, if greater, 50 cents.

“(2) OTHER POPULATIONS.—With respect to individuals not described in paragraph (1), the State may not impose any cost-sharing with respect to items and services unless such cost sharing is pursuant to a public cost-sharing schedule and such cost-sharing is not in excess of the average, nominal cost-sharing imposed in the State for health plans offered by health maintenance organizations (and similar organizations) for the same or similar items and services, as determined by the State insurance commissioner.

“(c) CERTAIN COST-SHARING PERMITTED.—

“(1) IN GENERAL.—Subject to paragraph (2), a State may—

“(A) impose additional cost-sharing to discourage the inappropriate use of emergency medical services delivered through a hospital emergency room, a medical transportation provider, or otherwise;

“(B) impose additional cost-sharing differentially in order to encourage the use of primary and preventive care and discourage unnecessary or less economical care; and

“(C) from imposing additional cost-sharing based on the failure to participate in employment training programs, drug or alcohol abuse treatment, counseling programs, or other programs promoting personal responsibility.

“(2) LIMITATION.—The additional cost-sharing imposed under paragraph (1) may not result—

“(A) in the case of an individual described in subsection (b)(1), in aggregate cost-sharing that exceeds the maximum amount of cost-sharing that may be imposed under subsection (b)(2) (determined without regard to this subsection); or

“(B) in the case of an individual described in subsection (b)(2), in aggregate cost-sharing that exceeds twice the maximum amount of cost-sharing that may be imposed under such subsection (determined without regard to this subsection).

“(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) COST-SHARING DEFINED.—In this section, the term ‘cost-sharing’ includes copayments, deductibles, coinsurance, and other charges for the provision of health care services.

**“SEC. 1504. DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES.**

“(a) IN GENERAL.—If a State contracts (or intends to contract) with a capitated health care organization (as defined in subsection (c)(1)) under which the State makes a capitation payment (as defined in subsection (c)(2)) to the organization for providing or arranging for the provision of medical assistance under the 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:

“(1) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—

“(A) to analyze and project health care expenditures and utilization for individuals enrolled (or to be enrolled) in such an organization under the State plan, and

“(B) to develop capitation payment rates, including a brief description of the general methodologies used by actuaries.

“(2) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the State plan.

“(3) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into contracts with capitated health care organizations, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

“(b) PUBLIC NOTICE AND COMMENT.—Under the State plan the State shall provide a process for providing, before the beginning of each contract year—

- “(1) public notice of—
  - “(A) the amounts of the capitation payments (if any) made under the plan for the contract year preceding the public notice, and
  - “(B)(i) the information described under subsection (a)(1) with respect to capitation payments for the contract year involved, or (ii) amounts of the capitation payments the State expects to make for the contract year involved, unless such information is designated as proprietary and not subject to public disclosure under State law, and
  - “(2) an opportunity for receiving public comment on the amounts and information for which notice is provided under paragraph (1).

“(c) DEFINITIONS.—In this title:

“(1) CAPITATED HEALTH CARE ORGANIZATION.—The term ‘capitated health care organization’ means a health maintenance organization or any other entity (including a health insuring organization, managed care organization, prepaid health plan, integrated service network, or similar entity) which under State law is permitted to accept capitation payments for providing (or arranging for the provision of) a group of items and services including at least inpatient hospital services and physicians’ services.

“(2) CAPITATION PAYMENT.—The term ‘capitation payment’ means, with respect to payment, payment on a prepaid capitation basis or any other risk basis to an entity for the entity’s provision (or arranging for the provision) of a group of items and services, including at least inpatient hospital services and physicians’ services.

**“SEC. 1505. PREVENTING SPOUSAL IMPOVERISHMENT.**

“(a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—

“(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title which is inconsistent with them.

“(2) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—

“(A) the determination of what constitutes income or resources, or

“(B) the methodology and standards for determining and evaluating income and resources.

“(3) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

“(b) RULES FOR TREATMENT OF INCOME.—

“(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

“(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse for pur-

poses 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,  $\frac{1}{2}$  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,  $\frac{1}{2}$  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,  $\frac{1}{2}$  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,  $\frac{1}{2}$  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),  $\frac{1}{2}$  of the income shall be considered to be available to the institutionalized spouse and  $\frac{1}{2}$  to the community spouse.

“(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an in-

stitutionalized 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  $\frac{1}{2}$  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 pro-

ceeding 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  $\frac{1}{3}$  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  $\frac{1}{12}$  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 allowance 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 the plan; and

“(B) who 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 AND INSTITUTIONAL 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, other long-term care services, and hospital and other institutional 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, 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 (consistent with the requirements of section 1502(d));

“(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 eligibility for benefits or 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 and 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).

“(iv) SUPPLEMENTAL ALLOTMENT FOR INDIAN HEALTH SERVICES.—The amount of any supplemental allotment for that State for the fiscal year under subsection (h).

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 clauses (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 AND INDIAN SUPPLEMENTAL ALLOTMENTS.—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) or (h) 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.—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

<b>“State or District:</b>	<b>Outlay allotment (in dollars):</b>
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 ex-

pend 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 percentage increase referred to in section 1108(c)(1)(B) (as so in effect).

“(B) DISREGARD OF ROUNDING REQUIREMENTS.—For purposes of subparagraph (A), the rounding requirements under section 1108(c) shall not apply.

“(C) LIMITATION ON TOTAL AMOUNT FOR FISCAL YEAR 1996.—Notwithstanding the provisions of subparagraph (A), the total amount of the 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 subparagraph (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 payments 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 number of undocumented alien residents of all the States.

“(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 \$500,000,000,
- “(ii) for fiscal year 1999 is \$600,000,000,
- “(iii) for fiscal year 2000 is \$700,000,000,
- “(iv) for fiscal year 2001 is \$800,000,000, and
- “(v) for fiscal year 2002 is \$900,000,000.

“(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 increase 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 fac-

tor (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.

“(h) ALLOTMENT FOR MEDICAL ASSISTANCE FOR SERVICES PROVIDED IN INDIAN HEALTH SERVICE AND RELATED FACILITIES.—

“(1) IN GENERAL.—For purposes of this section for each of fiscal years 1998 through 2002 in the case of a subsection (h) 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 described in section 1512(f)(3) (relating to services provided by the Indian Health Service and related facilities).

“(2) SUPPLEMENTAL OUTLAY ALLOTMENT.—

“(A) IN GENERAL.—For purposes of paragraph (1), the amount under this paragraph for a subsection (h) supplemental allotment eligible State for a fiscal year is equal to the subsection (h) supplemental allotment ratio (as defined in subparagraph (C)) multiplied by the subsection (h) supplemental pool amount (specified in subparagraph (D)) for the fiscal year.

“(B) SUBSECTION (h) SUPPLEMENTAL ALLOTMENT ELIGIBLE STATE.—In this subsection, the term ‘subsection (h) supplemental allotment eligible State’ means a State that has one or more facilities described in section 1512(f)(3)(A).

“(C) SUBSECTION (h) SUPPLEMENTAL ALLOTMENT RATIO.—In this paragraph, the ‘subsection (h) supplemental allotment ratio’ for a State is the ratio of—

“(i) the number of Indians residing in the State, to

“(ii) the sum of such numbers for all subsection (h) supplemental allotment eligible States.

“(D) SUBSECTION (h) SUPPLEMENTAL POOL AMOUNT.—In this paragraph, the ‘subsection (h) supplemental pool amount’, for—

“(i) fiscal year 1998 is \$89,090,082,

“(ii) fiscal year 1999 is \$94,238,788,

“(iii) fiscal year 2000 is \$99,685,050,

“(iv) fiscal year 2001 is \$105,446,063, and

“(v) fiscal year 2002 is \$111,540,017.

“(E) DETERMINATION OF NUMBER.—The number of Indians residing in a State under this paragraph for a fiscal year shall be based on the most recent available estimate of the Secretary of the Interior.

“(3) INDIAN DEFINED.—The term ‘Indian’ has the meaning given such term in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

**“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 review, medical and peer review, anti-fraud activities, independent evaluations, coordination of benefits, and meeting reporting requirements under this title, plus

“(C) an amount equal to 50 percent of so much of the remainder of the amounts expended during such quarter as are expended by the State in the administration of the State 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 40 percent or greater than 83 percent.

“(3) PROMULGATION.—The new Federal medical assistance percentage for any State shall be promulgated in a timely manner consistent with the promulgation of the old Federal medical assistance percentage under section 1101(a)(8)(B).

“(f) SPECIAL RULES.—For purposes of this title:

“(1) COMMONWEALTHS AND TERRITORIES.—In the case of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, the old and new Federal medical assistance percentages are 50 percent.

“(2) ALASKA.—In the case of Alaska, the old Federal medical assistance percentage is that percentage which bears the same ratio to 45 percent as the square of the adjusted per capita income of such State bears to the square of the per capita income of the continental United States. For purposes of the preceding sentence, the adjusted per capita income for Alaska shall be determined by dividing the State’s most recent 3-year average per capita by the health care cost index for such State (as determined under section 1511(d)(3)).

“(3) INDIAN HEALTH SERVICE AND RELATED FACILITIES.—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—

“(A) an Indian Health Service facility;

“(B) 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

“(C) 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.

“(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 subsection (a), 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:

<b>“Fiscal year:</b>	<b>Applicable Percentage:</b>
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 may 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.—

“(1) IN GENERAL.—Subject to paragraph (2), 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).

“(2) WAIVER AUTHORITY.—Beginning 2 years after the date of the enactment of this title, the Secretary, taking into account the report submitted under section 1513(j)(2), may waive, upon the application of a State, paragraph (1) as it applies in that State if the Secretary determines that the waiver would not financially undermine the program under this title and would not otherwise be abusive.

**“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.—Paragraph (1) 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) subject to paragraph (4), 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) of paragraph (1), 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) STUDY AND REPORT ON STATE FUNDING.—

“(1) STUDY.—The Comptroller General shall provide for a study of the methods by which States provide for financing

their share of expenditures under this title. Such study shall include an examination of the use of provider taxes and donations, as well as intergovernmental transfers.

“(2) REPORT.—Not later than 2 years after the date of the enactment of this title, the Comptroller General shall submit to Congress a report on such study. The report shall include such recommendations as the Comptroller General deems appropriate.

“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 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 relative adequacy of the health care infrastructure in different regions of the State.

“(d) PERFORMANCE MEASURES.—To the extent practicable—

“(1) one or more performance goals shall be established by the State for each strategic objective identified in the 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 requirement of section 1502(c) 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(c)(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.

**“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.

“(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 univer-

sity, 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 this part, 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.

“(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.

**“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, 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

“(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 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.

“(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.

“(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. 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. 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 or substantially violate another requirement of this title. In the case of a failure to meet a set-aside requirement under section 1502(c), 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.

“(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 non-custodial 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 in-

come of, and requires withholding amounts from State tax refunds to, any person who—

“(i) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

“(ii) has received payment from a third party for the costs of such services to such child, but

“(iii) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

“(2) DEFINITION.—For purposes of this subsection, the term ‘insurer’ includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.

“(g) ESTATE RECOVERIES AND LIENS PERMITTED.—A State may take such actions as it considers appropriate to adjust or recover from the individual or the individual’s estate any amounts paid as medical assistance to or on behalf of the individual under the State plan, including through the imposition of liens against the property or estate of the individual to the extent consistent with section 1506.

**“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 renewing a waiver, a State may require the facility to use other qualified, licensed personnel.

“(iii) ASSUMPTION OF WAIVER AUTHORITY BY SECRETARY.—If the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements, the Secretary shall assume and exercise the authority of the State to grant waivers.

“(5) REQUIRED TRAINING OF NURSE AIDES.—

“(A) IN GENERAL.—(i) Except as provided in clause (ii), a nursing facility must not use on a full-time basis any individual as a nurse aide in the facility, for more than 4 months unless the individual—

“(I) has completed a training and competency evaluation program, or a competency evaluation program, approved by the State under subsection (e)(1)(A), and

“(II) is competent to provide nursing or nursing-related services.

“(ii) A nursing facility must not use on a temporary, per diem, leased, or on any other basis other than as a permanent employee any individual as a nurse aide in the facility, unless the individual meets the requirements described in clause (i).

“(B) OFFERING COMPETENCY EVALUATION PROGRAMS FOR CURRENT EMPLOYEES.—A nursing facility must provide, for individuals used as a nurse aide by the facility, for a competency evaluation program approved by the State under subsection (e)(1) and such preparation as may be necessary for the individual to complete such a program.

“(C) COMPETENCY.—The nursing facility must not permit an individual, other than in a training and competency evaluation program approved by the State, to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competency and must not use such an individual as a nurse aide unless the facility has inquired of any State registry established under subsection (e)(2)(A) that the facility believes will include information concerning the individual.

“(D) RE-TRAINING REQUIRED.—For purposes of subparagraph (A), if, since an individual’s most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual performed nursing or nursing-related services for monetary compensation, such individual shall complete a new training and competency evaluation program, or a new competency evaluation program.

“(E) REGULAR IN-SERVICE EDUCATION.—The nursing facility must provide such regular performance review and regular in-service education as assures that individuals used as nurse aides are competent to perform services as nurse aides, including training for individuals providing nursing and nursing-related services to residents with cognitive impairments.

“(F) NURSE AIDE DEFINED.—In this paragraph, the term ‘nurse aide’ means any individual providing nursing or nursing-related services to residents in a nursing facility, but does not include an individual—

“(i) who is a licensed health professional (as defined in subparagraph (G)) or a registered 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 para-

graph (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 convenience and not required to treat the resident’s medical symptoms. Restraints may only be imposed—

“(I) to ensure the physical safety of the resident or other residents, and

“(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained).

“(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.

“(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records and to access to current clinical records of the resident upon request by the resident or the resident’s legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.

“(v) ACCOMMODATION OF NEEDS.—The right—

“(I) to reside and receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

“(II) to receive notice before the room or roommate of the resident in the facility is changed.

“(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 nursing 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 certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

“(C) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident’s behalf.

“(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) 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 written 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 indi-

viduals 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 administrator standards developed under subsection (f)(4) respecting the qualification of administrators of nursing facilities. Any such standards promulgated shall apply to administrators of hospital-based facilities as well as administrators of freestanding facilities.

“(5) SPECIFICATION OF RESIDENT ASSESSMENT INSTRUMENT.—The State shall specify the instrument to be used by nursing facilities in the State in complying with the requirement of subsection (b)(3)(A)(iii). 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 requirement relating to the areas to be covered in such a program, including at least basic nursing skills, personal

care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents' rights, and procedures for determination of competency;

"(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 prorata 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) of this section; or

“(c) has been assessed a civil money penalty described in section 1819(h)(2)(B)(ii) or subsection (h)(2)(A)(ii) of this section of not less than \$5,000, or has been subject to a remedy described in subsection (h)(1)(B)(i) of this section, clauses (i), (iii), or (iv) of subsection (h)(2)(A) of this section, clauses (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) assures, 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 NEGLIGENCE 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 sec-

tion 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 non-compliance 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).

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.

**“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.—Each State plan shall provide a program to assure the quality of services provided under the plan, including such services provided to individuals with chronic mental or physical illness.

#### “PART E—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 including residential or other 24-hour therapeutically planned structured services.
- “(13) Outpatient mental health services, including services furnished in a State-operated mental hospital and including community-based services.
- “(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 serv-



ices, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

“(19) Abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

“(20) Dental services.

“(21) Inpatient substance abuse treatment services and residential substance abuse treatment services.

“(22) Outpatient substance abuse treatment services.

“(23) Case management services.

“(24) Care coordination services.

“(25) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

“(26) Hospice care.

“(27) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—

“(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

“(B) performed under the general supervision or at the direction of a physician, or

“(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

“(28) Premiums for private health care insurance coverage, including private long-term care insurance coverage.

“(29) Medical transportation.

“(30) Medicare cost-sharing (as defined in subsection (c)).

“(31) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

“(32) Federally-qualified health center services (as defined in subsection (f)(2)(A)).

“(33) Rural health clinic services (as defined in subsection (f)(1)).

“(34) Physician assistant services.

“(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 incurred 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 the following items and services:

“(1) Screening services—

“(A) which are provided—

“(i) at intervals which meet reasonable standards of medical and dental practice, as determined by the

State after consultation with recognized medical and dental organizations involved in child health care and, with respect to immunizations under section 1501(a)(2)(G) in accordance with the schedule referred to in such section for pediatric vaccines, and

“(ii) at such other intervals, indicated as medically necessary, to determine the existence of certain physical or mental illnesses or conditions; and

“(B) which shall at a minimum include—

“(i) a comprehensive health and developmental history (including assessment of both physical and mental health development),

“(ii) a comprehensive unclothed physical exam,

“(iii) appropriate immunizations (according to the schedule referred to in section 1501(a)(2)(G) for pediatric vaccines) according to age and health history,

“(iv) laboratory tests (including lead blood level assessment appropriate for age and risk factors), and

“(v) health education (including anticipatory guidance).

“(2) Vision services—

“(A) which are provided—

“(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

“(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

“(B) which shall at a minimum include diagnosis and treatment for defects in vision, including eyeglasses.

“(3) Dental services—

“(A) which are provided—

“(i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care, and

“(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

“(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

“(4) Hearing services—

“(A) which are provided—

“(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

“(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

“(B) which shall at a minimum include diagnosis and treatment for defects in hearing, including hearing aids.

“(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.—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 an 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.

“(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.**

“In the case of a State in which one or more facilities of the Indian Health Service is located or in which a facility of an Indian health program described in section 1512(f)(3) 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, 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 manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992.

“(B) COVERED ENTITY DEFINED.—In this subsection, the term ‘covered entity’ means an entity described in subsection (a)(4) of section 340B of the Public Health Service Act if the entity furnishes the drugs to patients at a cost no greater than acquisition cost plus such dispensing fee as may be allowable as determined by the Office of Drug Pricing in the Public Health Service.

“(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 pe-

riod to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding—

“(I) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in section 340B(a)(4) of the Public Health Service Act,

“(II) any prices charged under the Federal Supply Schedule of the General Services Administration,

“(III) any prices used under a State pharmaceutical assistance program, and

“(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

“(ii) SPECIAL RULES.—The term ‘best price’—

“(I) shall be inclusive of cash discounts, free goods that are contingent on any purchase requirement, volume discounts, and rebates (other than rebates under this section),

“(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package,

“(III) shall not take into account prices that are merely nominal in amount, and

“(IV) shall exclude rebates paid under this section or any other rebates paid to a State participating in the 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 excluded 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 man-

ufacturer 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)) pursuant to a prior authorization program that is consistent with paragraph (5).

“(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.

“(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—

The 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(c)(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 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 application approved by the Food and Drug Administration.

“(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term ‘noninnovator multiple source drug’ means a multiple source drug that is not an innovator multiple source drug.

“(iv) SINGLE SOURCE DRUG.—The term ‘single source drug’ means a covered outpatient drug (other than a drug described in subparagraph (C) or (D) of paragraph (2)) 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. 2004. 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), (ii) and (iv) of section 1511(a)(2)(A) of the Social Security Act (as added by section 2003) 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 2003) 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 title.

(2) TRANSITIONAL RULE.—Any reference in any provision of law to title XIX of the Social Security Act or any provision thereof shall be deemed to be a reference to such title or provision as in effect on the day before the date of the enactment of this Act.

**SEC. 2005. 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 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.

## **Subtitle B—Other Provisions**

### **PART 1—INVOLVEMENT OF COMMERCE COMMITTEE IN FEDERAL GOVERNMENT POSITION REDUCTIONS**

#### **SEC. 2101. INVOLVEMENT OF COMMERCE COMMITTEE IN FEDERAL GOVERNMENT POSITION REDUCTIONS.**

In any provision of law that provides for consultation with (or a report to) a relevant committee of Congress respecting reductions in Federal Government positions, a reference to the Committee on Commerce of the House of Representatives shall be deemed to have been made in relation to matters within the jurisdiction of such Committee.

## **PART 2—RESTRICTING PUBLIC BENEFITS FOR ALIENS**

### **Subpart A—Eligibility for Federal Benefits**

#### **SEC. 2211. 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 2221) is not eligible for any Federal public benefit (as defined in subsection (c)).

(b) **EXCEPTIONS.**—Subsection (a) shall not apply with respect to the following Federal public benefits:

(1) Emergency medical services under title XIX or XV of the Social Security Act.

(2)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(c) **FEDERAL PUBLIC BENEFIT DEFINED.**—

(1) Except as provided in paragraph (2), for purposes of this part, 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, 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,

but only if such grant, contract, loan, or license under subparagraph (A) or program providing benefits under subparagraph (B) is under the jurisdiction of the Committee on Commerce of the House of Representatives.

(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. 2212. LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR MEDICAL ASSISTANCE.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law and except as provided in section 2213 and subsection (b), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 2221) for the program of medical assistance under titles XV and XIX of the Social Security Act.

(b) EXCEPTIONS.—Qualified aliens under this subsection shall be eligible for benefits under such program:

(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 subsection (c), and (ii) did not receive any Federal means-tested public benefit (as defined in section 2213(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 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.

(c) QUALIFYING QUARTERS.—For purposes of this section, 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 by the Secretary and including the medicaid program) 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 so defined) during any such quarter and the alien remains married to such spouse or such spouse is deceased.



**SEC. 2213. 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 2221) 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 part, the term "Federal means-tested public benefit" means a Federal public benefit described in section 2211(c) 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)(i) Public health assistance for immunizations.

(ii) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

**SEC. 2214. NOTIFICATION.**

Each Federal agency that administers a program to which section 2211, 2212, or 2213 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 subpart.

## Subpart B—General Provisions

### SEC. 2221. DEFINITIONS.

(a) **IN GENERAL.**—Except as otherwise provided in this part, the terms used in this part have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(b) **QUALIFIED ALIEN.**—For purposes of this part, 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. 2222. 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 2211(c)), to which the limitation under section 2211 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.

## PART 3—ENERGY ASSISTANCE

### SEC. 2131. ENERGY ASSISTANCE.

Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(1) by striking “(f)(1) Notwithstanding” and inserting “(f) Notwithstanding”; and

(2) by striking paragraph (2).



## TITLE II—COMMITTEE ON COMMERCE

### TITLE II, SUBTITLE A—MEDICAID RESTRUCTURING ACT OF 1996

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON COMMERCE,  
*Washington, DC, June 20, 1996.*

Hon. JOHN R. KASICH,  
*Chairman, Committee on the Budget,*  
*Washington, DC.*

DEAR MR. CHAIRMAN: On Friday, June 14, 1996, I transmitted to you legislative language reflecting the recommendations of the Committee on Commerce for changes in laws within its jurisdiction with respect to Welfare and Medicaid Reform pursuant to the provisions of section 310 of the Congressional Budget Act of 1974 and section 201 of H.Con.Res. 178, the Concurrent Resolution on the Budget—Fiscal Year 1997.

This legislative language was incorporated into Title II as follows: Subtitle A—Medicaid Restructuring Act of 1996; and Subtitle B—Other Provisions.

Because the committee did not complete markup of the Medicaid Restructuring Act of 1996 until late on Thursday, June 13, 1996, the committee was unable to submit the official Congressional Budget Office cost estimate for Title II, a Ramsayer submission, or the committee report when it transmitted the legislative language to the Budget Committee. In addition, the Minority had requested 3 days to file Minority Views on the Commerce Committee's action.

I am pleased to transmit to you at this time the accompanying report language for Title II. I understand that the Congressional Budget Office submitted a Title II cost estimate directly to the Budget Committee on June 17, 1996, and that it is also in the process of preparing an updated version of that cost estimate which should be submitted to you in the near future. In addition, I have been informed that the Legislative Counsel's Office has made arrangements with your staff to submit the Ramsayer language directly to the Budget Committee to expedite your committee's action.

If you have any questions concerning the committee's recommendations, or if I can be of any further assistance to you as you proceed with your committee's deliberations, please do not hesitate to contact me.

Sincerely,

THOMAS J. BLILEY, Jr.,  
*Chairman.*

Enclosure.

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## PURPOSE AND SUMMARY

The purpose of Subtitle A of Title II, the Medicaid Restructuring Act of 1996, as amended, is to repeal Title XIX and establish Title XV of the Social Security Act to guarantee coverage, benefits, and consumer protections to low-income individuals and families while providing additional funding and operational flexibility to enable the States to provide medical assistance in a more effective, efficient, and responsive manner.

## BACKGROUND AND NEED FOR LEGISLATION

Established by President Lyndon Johnson in 1965, Medicaid is a joint Federal-State matching open-ended entitlement program that pays for medically necessary health care services provided to eligible beneficiaries by qualified providers. There are Medicaid programs in all States except Arizona, which runs a similar medical assistance program under a Section 1115 waiver. (Federal funds for the Arizona program come from the Medicaid budget.) In addition, the Medicaid program is operated in the District of Columbia and U.S. territories, such as Puerto Rico and Guam.

Due to numerous operational and administrative flaws—which are detailed below—calls for Medicaid reform have come from States and localities, Congress, and the administration. Among the proposals for reform is the “Restructuring Medicaid” proposal unanimously adopted by the National Governors Association on February 6, 1996. The nature of this initiative and its impact on

the Federal legislative process are discussed in the section below entitled "State Perspectives on Medicaid Reform".

According to the Congressional Budget Office (CBO), the Medicaid program will cost a total of \$168.0 billion in fiscal year 1996. Of this amount, the Federal government will be responsible for an estimated \$95.7 billion. This expenditure represents an increase of nearly 12,000 percent over the program's initial cost to the Federal government of \$800 million in fiscal year 1966. Since 1990, Medicaid has been the fastest-growing segment of the Federal government's budget, with costs soaring at annual rates as high as 31 percent. 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, which are rising at roughly 4–5 percent annually. Although CBO projects Medicaid spending will rise at a rate of approximately 10 percent per year over the next 10 years, at that rate total program costs will double by the year 2002 absent reform. As detailed in the section entitled "Program Growth versus Program Cuts" below, the Medicaid Restructuring Act replaces the current Medicaid program's unsustainable cost spiral with considerable and consistent funding to the States.

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 on Commerce, 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. As described in the "Fiscal Impact of Medicaid Growth on the Federal and State Budgets" section below, the program's cost has been frequently underestimated and continues to threaten the budgetary stability of virtually every State.

Despite the vast sums expended on the Medicaid program, great disparities exist in the level of funding received by the States. Due to varying State match capabilities and an outdated funding distribution system, many States experiencing high program growth receive much lower levels of Federal funding than do more affluent States with lower program growth. This persistent inequality indicates that the current Medicaid program fails to target Federal funding where it is most needed. This flaw is examined in greater detail below in the section entitled "Does Money Follow People?".

In addition, the level of flexibility currently accorded the States has been restricted over time, thereby reducing States' abilities to adjust to changing program needs and the existing disparity in Federal funding. Medicaid was intended to operate as a joint Federal-State matching entitlement program providing medical assistance for low-income persons who are aged, blind, disabled, members of families with dependent children, and certain other pregnant women and children. Accordingly, States were permitted to design and administer their own programs, subject to specified Federal guidelines. Unfortunately, the current Medicaid program hardly resembles that which was originally intended. Instead of allowing State and local officials the flexibility to best administer Medicaid, the Federal government created an extensive "one-size-fits-all" maze of Federal mandates and administrative requirements. The nature of this centralized approach to program admin-

istration is described in the “Medicaid Micromanagement” section below.

Finally, the operational and administrative inflexibility of the current Medicaid program has prevented States from developing innovative and cost-efficient mechanisms designed to meet the health care needs of their residents. Instead, they have been forced to shoulder the uncontrollable costs of what has become a rigid and ineffective health care program. The program’s centralized micromanagement, complex bureaucratic requirements, and outdated service delivery is often cited by the States as impeding their ability to provide the quality health coverage, patient responsiveness, and efficient administration common in the private sector. As a result, States have long sought enhanced operational flexibility so that they can better meet the health care needs of their low-income residents. The current program’s complex system of waivers and the anticipated impact of the Medicaid Restructuring Act’s flexibility is described below in the section entitled “Fostering Greater State Innovation.”

#### STATE PERSPECTIVES ON MEDICAID REFORM

On February 6, 1996, the National Governors Association (NGA) adopted a detailed proposal for restructuring the Medicaid program (provided in Appendix A). This plan was adopted by a unanimous bipartisan vote following the President’s veto of the Balanced Budget Act of 1995, which included a landmark Medicaid reform proposal. 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.

In response to the Governors’ historic agreement, the House Committee on Commerce drafted the Medicaid Restructuring Act, a legislative plan founded on the principles unanimously endorsed by the bipartisan National Governors Association. (An analysis detailing the similarities between the NGA plan and the Medicaid Restructuring Act is provided in Appendix B.) Chief among these principles was that coverage and benefits should be guaranteed to all needy individuals. As a result, the NGA plan and the Medicaid Restructuring Act establish coverage guarantees to protect vulnerable Americans: pregnant women with family income below 133 percent of the poverty line; children under age 6 with family income below 133 percent of the poverty line; children age 6 through 12 with family income below 100 percent of the poverty line; children ages 13 through 18 with family income below 100 percent, phased in as per current law; children receiving foster care and adoption assistance; disabled individuals who meet specified income and resource standards; elderly individuals who meet Supplemental Security Income (SSI) and resource standards; qualified Medicare beneficiaries; qualified disabled and working individuals; certain other Medicare beneficiaries; and other poor adults who receive public assistance and who are not included in any of the above groups. (Appendix C provides a Congressional Research Service analysis of the Medicaid Restructuring Act’s provisions relating to Medicare beneficiaries.)

In addition, both the NGA plan and the Medicaid Restructuring Act provide for a generous package of guaranteed benefits, including: inpatient and outpatient hospital services; physicians' surgical and medical services; laboratory and x-ray services; immunizations for children; prenatal care and nurse midwife services; pediatric and family nurse practitioner services; nursing facility services and home health care; services provided by Federally-qualified health centers and rural health centers; prepregnancy family planning services and supplies; and early periodic screening and diagnostic services for children.

The funding proposals set forth by the NGA plan have similarly been incorporated into the Medicaid Restructuring Act. As detailed below, both plans provide for the creation of four new funding sources: a base allotment distributing annually-increasing funding levels according to a differential rate formula, an "umbrella" fund to meet States' "rainy day" needs, a special grant for Native Americans, and a special grant for States with large populations of illegal aliens. In addition, the Medicaid Restructuring Act adopts the NGA provisions requiring a State match as a condition of the receipt of "base allotment" and "umbrella fund" resources and establishes a new ceiling for the Federal medical assistance percentage (FMAP). (The latter provision has attracted bipartisan support in the House, as indicated by the New York delegation letter to President Clinton provided in Appendix D.)

Further, in response to concerns raised by a number of Governors and program experts, the Medicaid Restructuring Act retains current law protections for elderly Medicaid recipients who are institutionalized. These include: current law protections against the impoverishment of spouses of institutionalized recipients, which are retained to protect community spouses from becoming impoverished before their institutionalized spouses can be deemed eligible for medical assistance; current law limitations on the liens that may be placed on residents' property; prohibitions on any requirements that the adult children of institutionalized or hospitalized parents contribute to the cost of nursing facility services; and current law (OBRA 87) nursing home standards and enforcement provisions. In addition, the NGA plan and the Medicaid Restructuring Act set forth important protections for recipients seeking to satisfy a grievance against any State. In particular, States are required to provide for an administrative procedure enabling an individual alleging a denial of benefits or eligibility to receive a hearing; States are required to provide for judicial review in the State court system to an individual or class of individuals alleging a denial of benefits; an individual or class of individuals alleging a denial of benefits may file a petition for certiorari before the United States Supreme Court; and the Secretary of the U.S. Department of Health and Human Services is authorized to bring an action alleging denial of benefits in Federal court against a State on behalf of an individual or class of individuals.

Finally, both the NGA agreement and the Medicaid Restructuring Act provide for unprecedented flexibility to ensure that all States are able to improve their medical assistance programs. The Act provides for: streamlined State plan submission and amendment procedures; State capability to develop service delivery inno-



vations without a Federal waiver; repeal of the Boren Amendment and establishment of disallowance protections; and greater coordination in the development and implementation of State Medicaid plans through a process of public input by providers and the populations served. These reforms are intended to expedite plan implementation and pave the way to more effective, responsive, and efficient State Medicaid programs.

#### PROGRAM GROWTH VERSUS PROGRAM CUTS

During the debate on the Medicaid Restructuring Act, the assertion has been repeatedly made that this legislation “cuts” health care spending for low-income people. This assertion is categorically false. Over the 7-year period ending in fiscal year 2002, the average annual growth rate is approximately 5.2 percent. Total Federal “base allotment” spending between fiscal years 1996–2002 will total \$797.0 billion. In fact, Federal expenditures in fiscal year 2002 will total \$130.9 billion, a 46.9 percent increase over actual Federal funding in fiscal year 1995. Further, during every year during the 7-year budget window, Federal Medicaid spending will grow by an annual rate of at least 4.82 percent.

In addition to the base allotment, the Medicaid Restructuring Act establishes three additional new funding sources which distribute Federal funds to the States in addition to the base allotment. These additional sources include an “umbrella” fund, a special fund for Native Americans, and a special fund for States with large populations of illegal aliens. The “umbrella fund” is an open-ended source of funding that provides additional resources on a per capita basis to any State experiencing growth in the guaranteed population groups (and specified optional groups) that exceeds the States’ financing capacity provided by the base allotments and special grants. The \$500 million Native American fund is dedicated exclusively for services provided by Native American providers and is distributed to any State within whose boundaries Native Americans reside. Finally, the \$3.5 billion illegal alien fund is distributed among the fifteen States with the largest populations of illegal aliens, as determined annually by the Immigration and Naturalization Service.

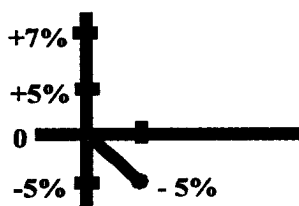
The four funding sources established by the Medicaid Restructuring Act provide more funding to all States and territories than they have ever received under the current Medicaid program. Further, just as the Act’s funding provisions differ significantly from those in current law, they also contrast sharply with the proposals set forth by the President in this and past years.

For instance, the Medicaid Restructuring Act provides for annual rates of positive growth, whereas President Clinton’s 1993 proposal for Medicaid spending called for a net reduction in Medicaid spending. A comparison of the two proposals reveals which represents spending growth and which represents a spending cut. As the chart below clearly illustrates, H.R. 3600 (the President’s “Health Security Act,” introduced November 20, 1993) proposed a very different first-year Medicaid spending than that contained in the Medicaid Restructuring Act. In fact, Section 9101 of the Health Security Act actually cut the Federal contribution to Medicaid by 5 percent (i.e., a growth rate of negative 5 percent). By contrast, the Medicaid Re-

structuring Act increases Medicaid spending by an average of nearly 7.1 percent in the first year.

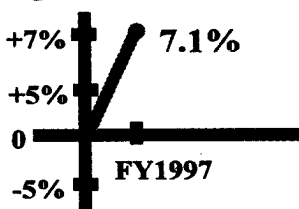
## A Medicaid Definition Primer

### *Clinton in 1993: This is a CUT in Medicaid*



**Section 9101 (Clinton Bill):**  
 "The Secretary shall provide each year for payment to each regional alliance of an amount equal to the Federal Medicaid assistance percentage of (a) 95 percent..."

### *Republicans in 1996 : This is GROWTH in Medicaid*



**Section 1511 (The Medicaid Restructuring Act of 1996)**  
**FY1997 National Average Growth Rate: 7.1%**

The Medicaid reform plan proposed by the administration this year adopts a different but no less problematic approach to Medicaid funding. The President's plan terminates the current funding mechanism in favor of a "per capita cap" which limits the amount of Federal funding available to a State to a specified per capita level. This per capita funding limit varies depending upon the population—children, nondisabled adults, nondisabled elderly, and the disabled—and depending upon a State's historical per capita spending level. As a result, States with low current per capita spending levels will be frozen in place and will never be able to rise to the funding levels received by their more affluent and historically more generous counterparts.

The administration plan's impact on States is not limited to the funding inequity it locks in, however. Since the administration's "per capita cap" proposal limits the level of funding available to the States, any costs incurred above that level are to be assumed solely by the States. Further, such an outcome is likely given the proposal's retention of many current law mandates and regulations. As a result, the "per capita cap" plan would place tremendous fiscal pressure on the States. According to a June 10, 1996 Congressional Budget Office letter to Commerce Committee Chairman Thomas J. Bliley (provided in Appendix E), States would be able to offset the unfunded coverage and benefits requirements of the administration's plan only by dropping optional individuals and services.

FISCAL IMPACT OF MEDICAID GROWTH ON THE FEDERAL AND STATE  
BUDGETS

Federal expenditures on the Medicaid program during the past 7 years have contributed significantly to the Federal budget deficit. However, Federal costs—while great—are only half the story. The States have been faced with even more extraordinary fiscal pressures because Medicaid mandates have made health care the fastest growing area of State budgets. Since almost all States are constitutionally required to annually balance their budgets, the Medicaid financial squeeze has had dramatic effects.

The table below, prepared by the National Association of State Budget Officers (NASBO), documents the extraordinary growth of Medicaid expenditures as a percentage of State expenditures. In 1987, Medicaid represented approximately 10.2 percent of all State expenditures. By 1991, Medicaid's State spending share had risen to 14.2 percent, and by 1994 it was a striking 19.4 percent of all State spending.

MEDICAID SPENDING AS A PERCENTAGE OF TOTAL STATE SPENDING

	1987	1988	1989	1990	1991	1992	1993	1994
Medicaid Spending .....	10.10	10.80	11.30	12.50	14.20	17.50	18.40	19.40
Non-Medicaid Spending .....	89.90	89.20	88.70	87.50	85.80	82.50	81.60	80.60

Source: National Association of State Budget Officers (NASBO) 1994 State Expenditure Report.

As State Medicaid spending has experienced uncontrollable rates of growth, other critical State funding initiatives have suffered commensurately. The table below, also prepared by NASBO, documents the decline in State spending for (a) elementary and secondary education, (b) higher education, (c) welfare, and (d) transportation, due to the growth in Medicaid. Based on NASBO data, State expenditures for elementary and secondary education declined 11 percent between 1987 and 1994; State higher education spending dropped 8 percent over the same time period; State welfare spending experienced a 13 percent decrease; and State investment in public transportation declined 16 percent. On the other hand, during the 1987–1994 time period, Medicaid spending increased by more than 90 percent.

PROGRAM SPENDING WITHIN SECTORS AS A PERCENTAGE OF TOTAL STATE SPENDING

	1987	1988	1989	1990	1991	1992	1993	1994
Elementary/Secondary Education .....	22.80	23.00	23.40	22.80	22.00	21.10	21.20	20.30
Higher Education .....	12.30	11.80	12.00	12.20	11.50	10.90	10.60	10.50
Welfare .....	5.20	5.30	5.10	5.00	5.30	5.00	4.90	4.50
Medicaid .....	10.20	10.80	11.30	12.50	14.20	17.50	18.40	19.40
Transportation .....	10.60	10.30	10.10	9.90	9.40	9.10	9.00	8.90

Source: National Association of State Budget Officers (NASBO) 1994 State Expenditure Report.

This data clearly reveals why many State officials have described Medicaid mandates as the worst of all the Federal unfunded mandates placed on the States. As these mandates were enacted into law through budget reconciliation in the late 1980s and early 1990s, they created havoc with State budgets and ultimately drained State funds away from education and welfare programs.

FEDERAL AND STATE BUDGETARY HAVOC WITHIN BUDGET  
RECONCILIATION

One of the most perplexing issues concerning the unconstrained fiscal growth of Medicaid is the manner in which it was accomplished. Most of the Medicaid mandates were enacted through reconciliation bills which were supposed to be budget-cutting vehicles.

How was this accomplished? In the days of the Gramm-Rudman-Hollings Budgetary Act, it was accomplished by “budgetary tricks.” For example, in the Concurrent Resolution of the Budget for fiscal year 1990 (H.Con.Res. 106), \$200 million of new budget entitlement authority became available for fiscal year 1990 for Medicaid spending. With this \$200 million, the Energy and Commerce Committee was able to report out five new mandated Medicaid expansions by slipping effective dates on some of the spending provisions so that only one calendar quarter’s worth of spending would occur in fiscal year 1990. By this “budgetary trick,” the Medicaid provisions technically met the budget target in the Budget Resolution. However, in the out-years, these five Medicaid provisions would cost additional billions of dollars. In 1991, the Office of Management and Budget (OMB) estimated that, taken together, these Medicaid provisions would increase Federal spending by approximately \$8.6 billion over a 5-year period.

Another perplexing issue in the enactment of Medicaid mandates has been the inability of the Congressional Budget Office (CBO) to provide accurate estimates of the projected costs of these laws. The table below documents the astounding inaccuracies in the CBO analysis of a number of Medicaid mandates enacted into law in the Omnibus Reconciliation Act of 1989 (OBRA 1989).

CBO OBRA 1989 MEDICAID MANDATES—ESTIMATES VS. ACTUAL FLORIDA EXPENDITURES FISCAL  
YEAR 1991

[In millions of dollars]

	CBO scoring for all States	Florida Fed- eral expendi- tures
Mandatory coverage of pregnant women .....	270	31
EPSDT .....	25	63
Payment for federally qualified health centers .....	15	8
Payment for obstetrical and pediatric services .....	11	4
<b>Total .....</b>	<b>321</b>	<b>106</b>

Note.—Florida represents 3.8 percent of all Federal Medicaid expenditures—but accounted for 33 percent of total estimated expenditures.

This table lists four major Medicaid mandates enacted into law in 1989: (1) mandatory coverage of pregnant women up to 133 percent; (2) mandatory coverage of early and periodic screening, diagnostic, and treatment services (EPSDT); (3) enhanced payment for health care centers; and (4) enhanced payments for obstetrical and pediatric services.<sup>1</sup> The first column is the official CBO estimate for all Federal expenditures for these benefits in fiscal year 1991. The second column is the actual Florida Federal expenditures provided

<sup>1</sup>In a 1990 official policy document of the National Governors’ Association (NGA) entitled “Short-Term Medicaid Policy” [Appendix G], the Nation’s Governors identified several of these mandates as particularly troublesome. In this NGA official document, they asked for relief from mandates in general and specified detailed changes to the EPSDT benefit. Governor Florio of New Jersey chaired the NGA Health Care Task Force which produced this policy, and then-Governor Bill Clinton was a member of the Task Force.

by the Florida Medicaid Director at that time. Florida represents only 3.8 percent of all Federal Medicaid expenditures.

First, compare the totals for fiscal year 1991. The CBO calculated that the total Federal expenditures for these four mandates would be \$321 million in fiscal year 1991 for all States. However, Florida's actual total was a whopping \$106 million.

With regard to the CBO cost estimate of the EPSDT benefit, the picture is even more disturbing. Incredibly, the CBO estimated that the total Federal expenditures for all States would be \$25 million for fiscal year 1991. The State of Florida alone spent \$63 million in fiscal year 1991 to comply with this mandate, or more than double the CBO official estimate.<sup>2</sup>

If one projects the Florida cost experience for these OBRA 1989 mandates to the entire Nation, the analysis leads to a disturbing conclusion. While CBO projected expenditures of \$323 million in fiscal year 1991, estimated Federal expenditures were closer to \$2.8 billion. Though forecasting is not an exact science, an error of 888 percent is truly indefensible. This staggering forecasting error not only contributed to the growth of the Federal budget deficit but was a devastating fiscal blow to the States.

#### DOES MONEY FOLLOW PEOPLE?

Despite the vast sums expended on the Medicaid program, great disparities exist in the level of funding received by the States. Due to varying State match capabilities and an outdated funding distribution system, many States experiencing high program growth receive much lower levels of Federal funding than do more affluent States with lower program growth. This persistent inequality indicates that the current Medicaid program fails to target Federal funding where it is most needed.

According to General Accounting Office analyses (see Appendix F), Medicaid differs from most other Federal programs in that it does not currently provide funding based on State needs. Instead, the current Medicaid program directs significant sums to certain States not because they experience high program need but because they are able to afford high levels of State matching funds. As a result, fully 20 States currently receive per capita Federal funding that is less than 90 percent of the national average. By contrast, 20 other States receive per capita grants that exceed 110 percent of the same national average, and six of these States receive grants that exceed 150 percent of the national average.

The vast disparities that exist in current Federal Medicaid funding can be illustrated by examining the very different circumstances of seven States. As the first segment of the chart below reveals, Oklahoma and Massachusetts receive highly divergent funding levels despite roughly equal poverty population sizes. Meanwhile, the grants received by New Mexico and Rhode Island are similar despite very different poverty populations. Finally, and

<sup>2</sup>In 1990, the American Public Welfare Association (APWA), conducted a study of the effect of the EPSDT expansions of OBRA 1989. Preliminary results from just 13 States showed an increase of \$468 million in State and Federal spending in fiscal year 1991. The States responding were: Alabama, Alaska, Arizona, Florida, Idaho, Maryland, Missouri, North Dakota, Oregon, South Dakota, Texas, Utah, and Wisconsin. The APWA study states "Please also be advised that this total figure is likely to increase as more States complete a budget analysis." Note that the two largest Medicaid programs—California and New York—were not included in this study.

perhaps most revealing, New York's Federal funding level is equivalent to the combined grants received by California and Florida, even though those two States also have a combined poverty population three times larger than New York's.

#### THE CURRENT MEDICAID PROGRAM PROVIDES UNEQUAL FUNDING TO THE STATES

	Poverty population	Fiscal year 1995 Federal grant
Oklahoma .....	605,437	\$833,975,195
Massachusetts .....	633,322	2,626,336,189
New Mexico .....	333,804	\$593,135,963
Rhode Island .....	109,520	567,026,552
California and Florida .....	7,615,972	\$12,742,333,244
New York .....	2,886,553	12,565,107,768

By contrast, the Medicaid Restructuring Act utilizes differential growth rates to ensure that all States receive larger Federal funding grants each year and that existing disparities are removed over time. As the following chart illustrates, the Medicaid Restructuring Act allows for a much higher cumulative increase for Oklahoma, which has an historically low per capita expenditure level but relatively higher program need, than for Rhode Island, which has low program need but a much higher per capita funding level. For comparison purposes, the impact on these two States of the President's "per capita cap" plan is also shown. Because it freezes all States at their current per capita level and grows them at the same rate, the current funding disparity between Oklahoma and Rhode Island is locked in place and no greater equality is possible.

	Oklahoma	Rhode Island		
	1996	2002	1996	2002
NGA-based Medicaid Plan .....	\$1,505.03 55 percent increase	\$2,325.10	\$4,982.52 16 percent increase	\$5,791.81
Per capita cap plan .....	\$1,505.03 39 percent increase	\$2,094.63	\$4,982.52 39 percent increase	\$6,934.45

#### MEDICAID MICROMANAGEMENT

According to many State officials, the explosion of Medicaid spending that has occurred over the last decade is due in large part to congressional and executive directives. During that period, Federally mandated eligibility changes fueled the expansion of the Medicaid-eligible population and the cost of the program. Although States have the discretion of supplementing Medicaid's mandated coverage standards, the Federal government frequently expanded the scope of these standards. As a result, States have been compelled to increase their spending levels in order to receive their share of Federally-matched Medicaid spending.

One of the most frequently heard State complaints regarding the Medicaid program concerns micromanagement by the Health Care Financing Administration (HCFA). At the Federal level, Medicaid is administered by HCFA which, through a network of regional offices, is supposed to work with State Medicaid departments to en-

sure appropriate management of the Medicaid program. However, the reality of HCFA-State relations has been described by many State officials as less a matter of coordinated cooperation than as an example of Federal micromanagement in State affairs.

Current Democrat and Republican Governors are by no means the first, or only, State Executives to describe to Congress the burdens of HCFA and the Medicaid program it administers. On December 8, 1990, then-Governor Bill Clinton told the House Government Operations Committee that "Medicaid used to be a program with a lot of options and few mandates—now, it's just the opposite."

Not surprisingly, many States have sought to take advantage of one of the only forms of relief available to them: waivers granted by the Federal government. Faced with the bureaucratic complexity and escalating costs of the Medicaid program, States have sought to make more efficient use of Medicaid dollars by such means as managed care. In many instances, the savings realized from these measures have been used to help fund program expansions, as part of State initiatives to extend coverage to uninsured individuals. Since significant use of managed care in Medicaid is not permitted under current Medicaid rules, States have sought waivers of statutory and regulatory requirements from the Secretary of Health and Human Services.

Currently, Federal Medicaid law makes two basic types of waivers available to the States. Section 1915 of the Social Security Act provides for "program waivers," which allow States meeting specified conditions to operate certain types of special programs that are listed in the statute. Section 1115(a) provides much broader authority to grant "demonstration waivers," under which nearly any provision of Medicaid law may be waived to allow States to experiment with program improvements.

The experience of those States with waivers permitted under Sections 1915 and 1115(a) has been mixed. While any relief from the Medicaid program's many restrictions is certainly appreciated by the States, the waiver process itself is a source of great dissatisfaction. The process by which States seek Section 1115 waivers is particularly complex and costly. In order to comply with HCFA's numerous application requirements, States must devote staff time and money to the process—resources they charge could be used to provide health care services to low-income State residents. When the application is complete, it typically contains enough paper to measure almost 3 feet in height.

Unfortunately, States still face often insurmountable obstacles to flexibility even after completing their waiver applications. To date, only 10 of an estimated 23 Section 1115 waivers have been approved by HCFA. In addition, the length of Federal waiver application review averages at least 12 months.

#### FOSTERING GREATER STATE INNOVATION

All across the Nation, States are working to improve the quality, effectiveness, and efficiency of the health care assistance they provide to their low-income residents. However, they have little of the operational or administrative flexibility they need to make their medical assistance programs more responsive and efficient. As a re-

sult, Governors and other State officials have long complained that Medicaid has served as an obstacle, rather than as an opportunity, to developing innovative health care delivery strategies.

The limited role that States are currently permitted to play has given State officials little choice but to watch, almost from the sidelines, as Medicaid has consumed more and more of their State resources. With Medicaid already the single largest program in virtually every State budget, its projected growth raises the prospect of severe financial crisis in the States. Already, Medicaid spending has prevented increased State investments in education, welfare services, law enforcement, and other critical human services.

Amidst the charges that the Health Care Financing Administration has served more as a hindrance than a help in States' efforts to get control over Medicaid spending, many States have sought relief through the Federal waiver process. As described above, however, that process is itself a source of considerable State frustration.

This is particularly difficult for many States to understand, given the success achieved by the relatively few States that have received waivers. For example, HCFA data reveals that States have achieved significant program efficiencies by means of waiver-facilitated managed care initiatives. In particular, Section 1915(b) waivers have enabled some States to establish limited managed care programs. Based on State reports to HCFA, the General Accounting Office has calculated that the national weighted average of the savings realized from such Medicaid managed care initiatives is 9.4 percent. As a result, States were able to serve the populations enrolled in these programs using almost 10 percent fewer dollars than required by the traditional Medicaid program.

According to State officials, the lesson to be drawn from such experiences is clear: if Medicaid is to be substantially improved and the growth rate of its costs brought under control, States must be empowered to restructure their Medicaid programs. They argue that the millions of low-income Americans who need health care assistance will be more effectively and efficiently served only when Governors and State legislators are given the flexibility to tailor Medicaid to meet the unique conditions in their States.

In light of the inflexibility of the current Medicaid program and the ineffectiveness of its waiver process, many States have petitioned Congress for significant Medicaid reform. In fact, State Governors have forged a close working relationship with the 104th Congress in an effort to develop the Medicaid Restructuring Act reform initiative. During the course of its hearings on the Medicaid program, the full Committee on Commerce and the Subcommittee on Health and Environment was advised by State Governors, Medicaid Directors, and other program experts to replace the current Medicaid program and its lengthy waiver process with a reform initiative allowing for real flexibility.

The Medicaid Restructuring Act of 1996 would give States unprecedented operational and administrative flexibility. According to State officials, the reform principles adopted by the National Governors Association and incorporated into the Medicaid Restructuring Act would enable States to develop innovative service delivery strategies to meet the health care needs of their low-income resi-



dents. In other words, such a reform initiative would free States in a manner far surpassing any flexibility they may enjoy under a waiver. In fact, under the proposed Medicaid reform initiative, the program would become the State-run program it was initially intended to be. In place of the current rigid, bureaucratic, and often inadequate service delivery system, States would be able to develop health service strategies tailored to match the differing characteristics of their communities. These can include capitation and managed care; enhanced maternal, child, and mental health care initiatives; and insurance premium subsidy programs. In addition, the Act would allow States that have received statewide or demonstration waivers—such as utilized by the State of Oregon in developing their prioritized list of health services—to maintain their innovative programs, subject to the provisions of this Act.

Administrative and operational flexibility would also create compelling incentives for States to achieve unprecedented program efficiency. Currently, the Medicaid program effectively penalizes States which save Medicaid resources. On average, 57 percent of all State savings revert to the Federal government, not the States that made the savings possible. Under the Medicaid Restructuring Act, States would be able to utilize the full value of any savings they achieve because they would be free to reinvest those resources into better service delivery, expanded benefits, and new program innovations.

#### HEARINGS

The full Committee on Commerce held three hearings on Medicaid issues, covering the National Governors' Association Medicaid Proposal and H.R. 3507, the Personal Responsibility and Work Opportunity Act of 1996. These hearings were held on: February 21, 1996, March 6, 1996, and June 11, 1996. Testimony at these hearings was received from 21 witnesses, including Governors, representatives of the administration, representatives of State health care administrations, representatives of health care professionals, representatives from the health care industry, and representatives of persons served by the Medicaid program.

Testifying before the full committee on February 21, 1996, were: The Honorable John M. Engler, Governor, State of Michigan; The Honorable Lawton Chiles, Governor, State of Florida; The Honorable Michael O. Leavitt, Governor, State of Utah; The Honorable Bob Miller, Governor, State of Nevada; The Honorable Tommy G. Thompson, Governor, State of Wisconsin; and The Honorable Roy Romer, Governor, State of Colorado.

Testifying before the full committee on March 6, 1996, were: The Honorable Donna E. Shalala, Secretary, Department of Health and Human Services; Mr. Gordon Springer, Executive Officer, Allina Health System; Mr. Terrence Shirley, Executive Director, Tampa Community Health Center; Paul Willging, Ph.D., Executive Vice President, American Health Care Association; Ms. Gail Willensky, Chair, Board of Directors, Physician Payment Review Commission; Mr. Louis F. Rossiter, Ph.D., Professor, Health Economics, Medical College of Virginia, Virginia Commonwealth University; Mr. Bob Greenstein, Executive Director, Center on Budget and Policy; Diane Rowland, SC.D., Senior Vice President, Henry J. Kaiser

Family Foundation and Executive Director Kaiser Commission on the Future of Medicaid; Mr. Jeff Crowley, National Association of People with AIDS, testifying on behalf of the Consortium for Citizens with Disabilities, Health Tasks Force; Stephen McConnell, Ph.D., Senior Vice President for Public Policy, Alzheimer's Association, testifying on behalf of the Long Term Care Campaign; and Mr. Greg Haifley, Senior Health Associate, Health Division, Children's Defense Fund, testifying on behalf of Maternal and Child Health Coalition.

Testifying before the full committee on June 11, 1996, were: The Honorable Donna E. Shalala, Secretary, Department of Health and Human Services; Stephen McConnell, Ph.D., Chairman, Long Term Care Campaign; Mr. Joseph Teefey, Deputy Director, Department of Medical Assistance Services, Commonwealth of Virginia; and Mr. Gail L. Warden, President and CEO, Henry Ford Health System, representing the American Hospital Association.

#### COMMITTEE CONSIDERATION

On June 13, 1996, the Committee on Commerce met in open markup session and considered a Committee Print entitled "Title II, Subtitle A—Medicaid Restructuring Act of 1996." On June 13, 1996, the committee ordered the Committee Print entitled "Title II, Subtitle A—Medicaid Restructuring Act of 1996," as amended, transmitted to the House Committee on the Budget for inclusion in the fiscal year 1997 Welfare and Medicaid Reform Budget Reconciliation Act, by a rollcall vote of 26 yeas to 14 nays.

#### ROLLCALL VOTES

Pursuant to clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, following are listed the recorded votes on the motion to order the Committee Print entitled "Title II, Subtitle A—Medicaid Restructuring Act of 1996" transmitted to the House Committee on the Budget, and on amendments offered to the measure, including the names of those members voting for and against.

#### ROLLCALL VOTE NO. 132

Bill: Committee Print entitled "Title II, Subtitle A—Medicaid Restructuring Act of 1996."

Amendment: An amendment by Mr. Waxman to the Deal Amendment, No.1A, re: eliminate the sunset provision with respect to the transition period.

Disposition: Agreed to, by a rollcall vote of 20 yeas to 19 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bliley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....	X	.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....	X	.....	.....
Mr. Fields .....			.....	Mr. Collins .....		.....	.....
Mr. Oxley .....		X	.....	Mr. Hall .....	X	.....	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....	X	.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....	X	.....	.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X	.....	.....
Mr. Hastert .....			.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....	X	.....	.....
Mr. Stearns .....		X	.....	Mr. Studds .....	X	.....	.....

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Paxon .....				Mr. Pallone .....	X		
Mr. Gillmor .....				Mr. Brown .....	X		
Mr. Klug .....		X		Mrs. Lincoln .....			
Mr. Franks .....		X		Mr. Gordon .....	X		
Mr. Greenwood .....		X		Ms. Furse .....	X		
Mr. Crapo .....				Mr. Deutsch .....	X		
Mr. Cox .....				Mr. Rush .....	X		
Mr. Deal .....		X		Ms. Eshoo .....	X		
Mr. Burr .....		X		Mr. Klink .....	X		
Mr. Bilbray .....				Mr. Stupak .....	X		
Mr. Whitfield .....		X		Mr. Engel .....	X		
Mr. Ganske .....		X					
Mr. Frisa .....		X					
Mr. Norwood .....		X					
Mr. White .....		X					
Mr. Coburn .....							

## ROLLCALL VOTE NO. 133

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: A substitute amendment by Mr. Bliley to the Dingell Amendment, No.2A, re: study and report on State financing efforts.

Disposition: Agreed to, by a rollcall vote of 23 yeas to 20 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bliley .....	X			Mr. Dingell .....		X	
Mr. Moorhead .....	X			Mr. Waxman .....		X	
Mr. Tauzin .....	X			Mr. Markey .....		X	
Mr. Fields .....	X			Mr. Collins .....			
Mr. Oxley .....	X			Mr. Hall .....		X	
Mr. Bilirakis .....	X			Mr. Richardson .....		X	
Mr. Schaefer .....	X			Mr. Bryant .....		X	
Mr. Barton .....	X			Mr. Boucher .....		X	
Mr. Hastert .....	X			Mr. Manton .....		X	
Mr. Upton .....	X			Mr. Towns .....		X	
Mr. Stearns .....	X			Mr. Studds .....		X	
Mr. Paxon .....	X			Mr. Pallone .....		X	
Mr. Gillmor .....				Mr. Brown .....		X	
Mr. Klug .....		X		Mrs. Lincoln .....			
Mr. Franks .....	X			Mr. Gordon .....			
Mr. Greenwood .....	X			Ms. Furse .....		X	
Mr. Crapo .....	X			Mr. Deutsch .....		X	
Mr. Cox .....	X			Mr. Rush .....		X	
Mr. Deal .....	X			Ms. Eshoo .....		X	
Mr. Burr .....	X			Mr. Klink .....		X	
Mr. Bilbray .....				Mr. Stupak .....			
Mr. Whitfield .....	X			Mr. Engel .....		X	
Mr. Ganske .....		X					
Mr. Frisa .....	X						
Mr. Norwood .....	X						
Mr. White .....	X						
Mr. Coburn .....	X						

## ROLLCALL VOTE NO. 134

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Ms. Eshoo, No. 4, re: retain current guarantees with respect to treatment and screening services for children.

Disposition: Not agreed to, by a rollcall vote of 19 yeas to 23 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bileley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....	X	.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....	X	.....	.....
Mr. Fields .....		X	.....	Mr. Collins .....	X	.....	.....
Mr. Oxley .....		X	.....	Mr. Hall .....	X	.....	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....	X	.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....		.....	.....
Mr. Barton .....			.....	Mr. Boucher .....	X	.....	.....
Mr. Hastert .....			.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....		.....	.....
Mr. Stearns .....		X	.....	Mr. Studds .....	X	.....	.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X	.....	.....
Mr. Gillmor .....			.....	Mr. Brown .....	X	.....	.....
Mr. Klug .....		X	.....	Mrs. Lincoln .....		.....	.....
Mr. Franks .....		X	.....	Mr. Gordon .....	X	.....	.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X	.....	.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X	.....	.....
Mr. Cox .....		X	.....	Mr. Rush .....	X	.....	.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X	.....	.....
Mr. Burr .....		X	.....	Mr. Klink .....	X	.....	.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X	.....	.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X	.....	.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

#### ROLLCALL VOTE NO. 135

Bill: Committee Print entitled "Title II, Subtitle A—Medicaid Restructuring Act of 1996."

Amendment: An amendment by Mr. Stupak and Mr. Richardson to the Upton Amendment No. 5A, re: Federally qualified health centers and rural health clinics funding at 100 percent of the 1995 level.

Disposition: Not agreed to, by a rollcall vote of 19 yeas to 21 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bileley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....	X	.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....	X	.....	.....
Mr. Fields .....		X	.....	Mr. Collins .....	X	.....	.....
Mr. Oxley .....		X	.....	Mr. Hall .....		.....	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....	X	.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....		.....	.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X	.....	.....
Mr. Hastert .....			.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....	X	.....	.....
Mr. Stearns .....		X	.....	Mr. Studds .....	X	.....	.....
Mr. Paxon .....			.....	Mr. Pallone .....	X	.....	.....
Mr. Gillmor .....			.....	Mr. Brown .....	X	.....	.....
Mr. Klug .....			.....	Mrs. Lincoln .....		.....	.....
Mr. Franks .....		X	.....	Mr. Gordon .....	X	.....	.....

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Greenwood .....		X	.....	Ms. Furse .....	X	.....	.....
Mr. Crapo .....			.....	Mr. Deutsch .....	X	.....	.....
Mr. Cox .....		X	.....	Mr. Rush .....	X	.....	.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X	.....	.....
Mr. Burr .....		X	.....	Mr. Klink .....	X	.....	.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X	.....	.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X	.....	.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

## ROLLCALL VOTE NO. 136

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Mr. Markey and Mr. Pallone, No. 6, re: continuing current entitlement for elderly individuals requiring nursing facility services.

Disposition: Not agreed to, by a rollcall vote of 19 yeas to 24 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bilely .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....	X	.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....	X	.....	.....
Mr. Fields .....		X	.....	Mr. Collins .....	X	.....	.....
Mr. Oxley .....		X	.....	Mr. Hall .....		X	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....	X	.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....		.....	.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X	.....	.....
Mr. Hastert .....			.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....	X	.....	.....
Mr. Stearns .....		X	.....	Mr. Studds .....	X	.....	.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X	.....	.....
Mr. Gillmor .....			.....	Mr. Brown .....	X	.....	.....
Mr. Klug .....			.....	Mrs. Lincoln .....		.....	.....
Mr. Franks .....		X	.....	Mr. Gordon .....	X	.....	.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X	.....	.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X	.....	.....
Mr. Cox .....		X	.....	Mr. Rush .....	X	.....	.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X	.....	.....
Mr. Burr .....		X	.....	Mr. Klink .....	X	.....	.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X	.....	.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X	.....	.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

## ROLLCALL VOTE NO. 137

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Mr. Deutsch, No. 8, re: continuing current entitlement for elderly individuals with Alzheimer’s disease.

Disposition: Not agreed to, by a rollcall vote of 16 yeas to 20 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bliley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....	X	.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....	X	.....	.....
Mr. Fields .....			.....	Mr. Collins .....		.....	.....
Mr. Oxley .....		X	.....	Mr. Hall .....		.....	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....	X	.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....		.....	.....
Mr. Barton .....			.....	Mr. Boucher .....	X	.....	.....
Mr. Hastert .....			.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....	X	.....	.....
Mr. Stearns .....		X	.....	Mr. Studds .....		.....	.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X	.....	.....
Mr. Gillmor .....			.....	Mr. Brown .....	X	.....	.....
Mr. Klug .....		X	.....	Mrs. Lincoln .....		.....	.....
Mr. Franks .....			.....	Mr. Gordon .....	X	.....	.....
Mr. Greenwood .....			.....	Ms. Furse .....	X	.....	.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X	.....	.....
Mr. Cox .....		X	.....	Mr. Rush .....	X	.....	.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X	.....	.....
Mr. Burr .....		X	.....	Mr. Klink .....		.....	.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X	.....	.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X	.....	.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

#### ROLLCALL VOTE NO. 138

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Mr. Gordon, No. 10, re: continuing current entitlement for elderly individuals who are veterans and require nursing facility services.

Disposition: Not agreed to, by a rollcall vote of 17 yeas to 22 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bliley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....	X	.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....	X	.....	.....
Mr. Fields .....		X	.....	Mr. Collins .....		.....	.....
Mr. Oxley .....			.....	Mr. Hall .....	X	.....	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....	X	.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....		.....	.....
Mr. Barton .....		X	.....	Mr. Boucher .....		.....	.....
Mr. Hastert .....		X	.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....	X	.....	.....
Mr. Stearns .....		X	.....	Mr. Studds .....		.....	.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X	.....	.....
Mr. Gillmor .....			.....	Mr. Brown .....	X	.....	.....
Mr. Klug .....		X	.....	Mrs. Lincoln .....		.....	.....
Mr. Franks .....			.....	Mr. Gordon .....	X	.....	.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X	.....	.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X	.....	.....
Mr. Cox .....		X	.....	Mr. Rush .....	X	.....	.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X	.....	.....

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Burr .....		X	.....	Mr. Klink .....	X	.....	.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X	.....	.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X	.....	.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....			.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

## ROLLCALL VOTE NO. 139

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid restructuring Act of 1996.”

Amendment: An amendment by Mr. Dingell to the Ganske Amendment, No. 11A, re: strike the waiver authority.

Disposition: Not agreed to, by a rollcall vote of 17 yeas to 25 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bileley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....	X	.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....	X	.....	.....
Mr. Fields .....		X	.....	Mr. Collins .....			.....
Mr. Oxley .....		X	.....	Mr. Hall .....		X	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....	X	.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....			.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X	.....	.....
Mr. Hastert .....		X	.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....	X	.....	.....
Mr. Stearns .....		X	.....	Mr. Studds .....			.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X	.....	.....
Mr. Gillmor .....			.....	Mr. Brown .....	X	.....	.....
Mr. Klug .....		X	.....	Mrs. Lincoln .....			.....
Mr. Franks .....			.....	Mr. Gordon .....	X	.....	.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X	.....	.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X	.....	.....
Mr. Cox .....		X	.....	Mr. Rush .....	X	.....	.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X	.....	.....
Mr. Burr .....		X	.....	Mr. Klink .....	X	.....	.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X	.....	.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X	.....	.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

## ROLLCALL VOTE NO. 140

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Mr. Klink, No. 12, re: continuing current entitlement for elderly nursing home residents.

Disposition: Not agreed to, by a rollcall vote of 16 yeas to 23 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bileley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....			.....
Mr. Tauzin .....		X	.....	Mr. Markey .....			.....

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Fields .....		X	.....	Mr. Collins .....			.....
Mr. Oxley .....		X	.....	Mr. Hall .....			.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....	X		.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....	X		.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X		.....
Mr. Hastert .....		X	.....	Mr. Manton .....	X		.....
Mr. Upton .....		X	.....	Mr. Towns .....	X		.....
Mr. Stearns .....		X	.....	Mr. Studds .....			.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X		.....
Mr. Gillmor .....			.....	Mr. Brown .....	X		.....
Mr. Klug .....		X	.....	Mrs. Lincoln .....			.....
Mr. Franks .....	X		.....	Mr. Gordon .....			.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X		.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X		.....
Mr. Cox .....			.....	Mr. Rush .....	X		.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X		.....
Mr. Burr .....		X	.....	Mr. Klink .....	X		.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X		.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X		.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

## ROLLCALL VOTE NO. 141

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Mr. Ganske, No. 13, re: child treatment services.

Disposition: Not agreed to, by a rollcall vote of 18 yeas to 22 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bilely .....		X	.....	Mr. Dingell .....	X		.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....			.....
Mr. Tauzin .....		X	.....	Mr. Markey .....			.....
Mr. Fields .....		X	.....	Mr. Collins .....			.....
Mr. Oxley .....		X	.....	Mr. Hall .....	X		.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....	X		.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....	X		.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X		.....
Mr. Hastert .....		X	.....	Mr. Manton .....	X		.....
Mr. Upton .....		X	.....	Mr. Towns .....	X		.....
Mr. Stearns .....		X	.....	Mr. Studds .....			.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X		.....
Mr. Gillmor .....			.....	Mr. Brown .....	X		.....
Mr. Klug .....			.....	Mrs. Lincoln .....			.....
Mr. Franks .....		X	.....	Mr. Gordon .....			.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X		.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X		.....
Mr. Cox .....		X	.....	Mr. Rush .....	X		.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X		.....
Mr. Burr .....		X	.....	Mr. Klink .....	X		.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X		.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X		.....
Mr. Ganske .....	X		.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				



Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Coburn .....	X	.....	.....				

## ROLLCALL VOTE NO. 142

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Mr. Richardson, No. 14, re: continuing current entitlement for Indians.

Disposition: Not agreed to, by a rollcall vote of 18 yeas to 22 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Biiley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....		.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....		.....	.....
Mr. Fields .....		X	.....	Mr. Collins .....		.....	.....
Mr. Oxley .....		X	.....	Mr. Hall .....		X	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....	X	.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....	X	.....	.....
Mr. Barton .....		.....	.....	Mr. Boucher .....	X	.....	.....
Mr. Hastert .....		X	.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....	X	.....	.....
Mr. Stearns .....		X	.....	Mr. Studds .....		.....	.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X	.....	.....
Mr. Gillmor .....		.....	.....	Mr. Brown .....	X	.....	.....
Mr. Klug .....		.....	.....	Mrs. Lincoln .....		.....	.....
Mr. Franks .....		X	.....	Mr. Gordon .....	X	.....	.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X	.....	.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X	.....	.....
Mr. Cox .....	X	.....	.....	Mr. Rush .....	X	.....	.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X	.....	.....
Mr. Burr .....		X	.....	Mr. Klink .....	X	.....	.....
Mr. Bilbray .....		.....	.....	Mr. Stupak .....	X	.....	.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X	.....	.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....	X	.....	.....				

## ROLLCALL VOTE NO. 143

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Mr. Engel, No. 15, re: nursing home choice.

Disposition: Not agreed to, by a rollcall vote of 15 yeas to 24 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Biiley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....		.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....		.....	.....
Mr. Fields .....		X	.....	Mr. Collins .....		.....	.....
Mr. Oxley .....		X	.....	Mr. Hall .....	X	.....	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....		.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....		.....	.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X	.....	.....
Mr. Hastert .....		X	.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....	X	.....	.....

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Stearns .....		X	.....	Mr. Studds .....			.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X		.....
Mr. Gillmor .....			.....	Mr. Brown .....	X		.....
Mr. Klug .....		X	.....	Mrs. Lincoln .....			.....
Mr. Franks .....			.....	Mr. Gordon .....	X		.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X		.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X		.....
Mr. Cox .....		X	.....	Mr. Rush .....	X		.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X		.....
Mr. Burr .....		X	.....	Mr. Klink .....	X		.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X		.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X		.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

## ROLLCALL VOTE NO. 144

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Ms. Furse, No. 16 re: coverage for pregnant women and children.

Disposition: Not agreed to, by a rollcall vote of 14 yeas to 25 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bilely .....		X	.....	Mr. Dingell .....	X		.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....			.....
Mr. Tauzin .....		X	.....	Mr. Markey .....			.....
Mr. Fields .....		X	.....	Mr. Collins .....			.....
Mr. Oxley .....		X	.....	Mr. Hall .....			.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....			.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....			.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X		.....
Mr. Hastert .....		X	.....	Mr. Manton .....	X		.....
Mr. Upton .....		X	.....	Mr. Towns .....	X		.....
Mr. Stearns .....		X	.....	Mr. Studds .....			.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X		.....
Mr. Gillmor .....			.....	Mr. Brown .....	X		.....
Mr. Klug .....		X	.....	Mrs. Lincoln .....			.....
Mr. Franks .....		X	.....	Mr. Gordon .....	X		.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X		.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X		.....
Mr. Cox .....		X	.....	Mr. Rush .....	X		.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X		.....
Mr. Burr .....		X	.....	Mr. Klink .....	X		.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X		.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X		.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

## ROLLCALL VOTE NO. 145

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Mr. Brown, No. 17 re: breast and cervical cancer.

Disposition: Not agreed to, by a rollcall vote of 17 yeas to 23 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bileley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....		.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....		.....	.....
Mr. Fields .....		X	.....	Mr. Collins .....		.....	.....
Mr. Oxley .....		X	.....	Mr. Hall .....	X	.....	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....		.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....		.....	.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X	.....	.....
Mr. Hastert .....		X	.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....	X	.....	.....
Mr. Stearns .....		X	.....	Mr. Studds .....		.....	.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X	.....	.....
Mr. Gillmor .....			.....	Mr. Brown .....	X	.....	.....
Mr. Klug .....		X	.....	Mrs. Lincoln .....		.....	.....
Mr. Franks .....	X		.....	Mr. Gordon .....	X	.....	.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X	.....	.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X	.....	.....
Mr. Cox .....		X	.....	Mr. Rush .....	X	.....	.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X	.....	.....
Mr. Burr .....		X	.....	Mr. Klink .....	X	.....	.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X	.....	.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X	.....	.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....	X		.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

#### ROLLCALL VOTE NO. 146

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Mr. Stupak, No. 18, re: treatment services for individuals in rural areas.

Disposition: Not agreed to, by a rollcall vote of 14 yeas to 24 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bileley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....		.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....		.....	.....
Mr. Fields .....			.....	Mr. Collins .....		.....	.....
Mr. Oxley .....		X	.....	Mr. Hall .....		.....	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....		.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....		.....	.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X	.....	.....
Mr. Hastert .....		X	.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....	X	.....	.....
Mr. Stearns .....		X	.....	Mr. Studds .....		.....	.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X	.....	.....
Mr. Gillmor .....			.....	Mr. Brown .....	X	.....	.....
Mr. Klug .....		X	.....	Mrs. Lincoln .....		.....	.....
Mr. Franks .....		X	.....	Mr. Gordon .....	X	.....	.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X	.....	.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X	.....	.....
Mr. Cox .....		X	.....	Mr. Rush .....	X	.....	.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X	.....	.....

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Burr .....		X	.....	Mr. Klink .....	X	.....	.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X	.....	.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X	.....	.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

## ROLLCALL VOTE NO. 147

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Ms. Furse, No. 20, re: protection for waived States.

Disposition: Not agreed to, by a rollcall vote of 14 yeas to 25 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bileley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....		.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....		.....	.....
Mr. Fields .....			.....	Mr. Collins .....		.....	.....
Mr. Oxley .....		X	.....	Mr. Hall .....	X	.....	.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....		.....	.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....		.....	.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X	.....	.....
Mr. Hastert .....		X	.....	Mr. Manton .....	X	.....	.....
Mr. Upton .....		X	.....	Mr. Towns .....	X	.....	.....
Mr. Stearns .....		X	.....	Mr. Studds .....		.....	.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X	.....	.....
Mr. Gillmor .....			.....	Mr. Brown .....	X	.....	.....
Mr. Klug .....		X	.....	Mrs. Lincoln .....		.....	.....
Mr. Franks .....		X	.....	Mr. Gordon .....	X	.....	.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X	.....	.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X	.....	.....
Mr. Cox .....		X	.....	Mr. Rush .....	X	.....	.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X	.....	.....
Mr. Burr .....		X	.....	Mr. Klink .....	X	.....	.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X	.....	.....
Mr. Whitfield .....		X	.....	Mr. Engel .....	X	.....	.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

## ROLLCALL VOTE NO. 148

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Mr. Pallone, No. 21, re: payment safeguards.

Disposition: Not agreed to, by a rollcall vote of 16 yeas to 24 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bileley .....		X	.....	Mr. Dingell .....	X	.....	.....
Mr. Moorhead .....		X	.....	Mr. Waxman .....		.....	.....
Mr. Tauzin .....		X	.....	Mr. Markey .....		.....	.....

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Fields .....		X	.....	Mr. Collins .....			.....
Mr. Oxley .....		X	.....	Mr. Hall .....	X		.....
Mr. Bilirakis .....		X	.....	Mr. Richardson .....			.....
Mr. Schaefer .....		X	.....	Mr. Bryant .....			.....
Mr. Barton .....		X	.....	Mr. Boucher .....	X		.....
Mr. Hastert .....		X	.....	Mr. Manton .....	X		.....
Mr. Upton .....		X	.....	Mr. Towns .....	X		.....
Mr. Stearns .....		X	.....	Mr. Studds .....			.....
Mr. Paxon .....		X	.....	Mr. Pallone .....	X		.....
Mr. Gillmor .....			.....	Mr. Brown .....	X		.....
Mr. Klug .....		X	.....	Mrs. Lincoln .....			.....
Mr. Franks .....		X	.....	Mr. Gordon .....	X		.....
Mr. Greenwood .....		X	.....	Ms. Furse .....	X		.....
Mr. Crapo .....		X	.....	Mr. Deutsch .....	X		.....
Mr. Cox .....		X	.....	Mr. Rush .....	X		.....
Mr. Deal .....		X	.....	Ms. Eshoo .....	X		.....
Mr. Burr .....		X	.....	Mr. Klink .....	X		.....
Mr. Bilbray .....			.....	Mr. Stupak .....	X		.....
Mr. Whitfield .....	X		.....	Mr. Engel .....	X		.....
Mr. Ganske .....		X	.....				
Mr. Frisa .....		X	.....				
Mr. Norwood .....		X	.....				
Mr. White .....		X	.....				
Mr. Coburn .....		X	.....				

## ROLLCALL VOTE NO. 149

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Motion: Motion by Mr. Bliley to order the Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996,” as amended, transmitted to the Committee on the Budget for inclusion in the fiscal year 1997 Welfare and Medicaid Reform Budget Reconciliation Act.

Disposition: Agreed to, by a rollcall vote of 26 yeas to 14 nays.

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bliley .....	X		.....	Mr. Dingell .....		X	.....
Mr. Moorhead .....	X		.....	Mr. Waxman .....			.....
Mr. Tauzin .....	X		.....	Mr. Markey .....			.....
Mr. Fields .....	X		.....	Mr. Collins .....			.....
Mr. Oxley .....	X		.....	Mr. Hall .....	X		.....
Mr. Bilirakis .....	X		.....	Mr. Richardson .....			.....
Mr. Schaefer .....	X		.....	Mr. Bryant .....			.....
Mr. Barton .....	X		.....	Mr. Boucher .....		X	.....
Mr. Hastert .....	X		.....	Mr. Manton .....		X	.....
Mr. Upton .....	X		.....	Mr. Towns .....		X	.....
Mr. Stearns .....	X		.....	Mr. Studds .....		X	.....
Mr. Paxon .....	X		.....	Mr. Pallone .....		X	.....
Mr. Gillmor .....			.....	Mr. Brown .....		X	.....
Mr. Klug .....	X		.....	Mrs. Lincoln .....			.....
Mr. Franks .....	X		.....	Mr. Gordon .....		X	.....
Mr. Greenwood .....	X		.....	Ms. Furse .....		X	.....
Mr. Crapo .....	X		.....	Mr. Deutsch .....		X	.....
Mr. Cox .....	X		.....	Mr. Rush .....		X	.....
Mr. Deal .....	X		.....	Ms. Eshoo .....		X	.....
Mr. Burr .....	X		.....	Mr. Klink .....		X	.....
Mr. Bilbray .....			.....	Mr. Stupak .....		X	.....
Mr. Whitfield .....		X	.....	Mr. Engel .....		X	.....
Mr. Ganske .....	X		.....				
Mr. Frisa .....	X		.....				
Mr. Norwood .....	X		.....				

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. White .....	X	.....	.....				
Mr. Coburn .....	X	.....	.....				

## VOICE VOTES

Bill: Committee Print entitled “Title II, Subtitle A—Medicaid Restructuring Act of 1996.”

Amendment: An amendment by Mr. Deal, No. 1, re: extend to 1 year the transition period for which a family leaving the welfare system would be covered under the Medicaid Program.

Disposition: Agreed to, as amended, by a voice vote.

Amendment: An amendment by Mr. Dingell, No. 2, re: provider taxes and conflict of interest provisions.

Disposition: Superseded by the adoption of the Bliley substitute amendment to the Dingell amendment.

Amendment: An amendment by Mr. Whitfield, No. 3, re: phase in coverage of children.

Disposition: Agreed to, by a voice vote.

Amendment: An amendment by Mr. Upton, No. 5, re: federally qualified health centers and rural health clinics funding at 85 percent of the 1995 level.

Disposition: Agreed to, by a voice vote.

Amendment: An amendment by Mr. Burr, No. 7, re: nursing home waivers.

Disposition: Agreed to, by a voice vote.

Amendment: An amendment by Mr. Bilirakis, No. 9, re: technical amendments.

Disposition: Agreed to, by unanimous consent.

Amendment: An amendment by Mr. Ganske, No. 11, re: retain current protections against State fraud and abuse.

Disposition: Agreed to, by a voice vote.

Amendment: An amendment by Mr. Towns, No. 19, re: physician assistant services.

Disposition: Agreed to, by unanimous consent.

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee on Commerce held oversight and legislative hearings and made findings that are reflected in this report.

## COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the committee by the Committee on Government Reform and Oversight.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the committee finds that Title II, Sub-

title A would result in no new or increased budget authority or tax expenditures or revenues.

#### COMMITTEE COST ESTIMATE

The committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974. [See consolidated Congressional Budget Office Cost Estimate on page 1940.]

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the committee finds that the legislation would have no inflationary impact.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

### TITLE II, SUBTITLE A—MEDICAID RESTRUCTURING ACT OF 1996

#### *Sec. 2001. Short title of subtitle A*

This section cites this Subtitle as the Medicaid Restructuring Act of 1996.

#### *Sec. 2002. Finding; goals for Medicaid restructuring*

This section cites Congress' finding with regard to Medicaid, as follows: The Congress finds that the National Governors' Association on February 6, 1996, adopted unanimously and on a bipartisan basis goals and principles to guide the restructuring of the Medicaid program.

In addition, this Section cites four primary goals for restructuring Medicaid:

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; and
4. States must be protected from unanticipated program costs resulting from economic fluctuations in the business cycle, changing demographics, and natural disasters.

*Sec. 2003. Restructuring the Medicaid Program*

This section amends the Social Security Act by inserting after Title XIV a new Title XV.

**TITLE XV—PROGRAM OF MEDICAL ASSISTANCE FOR LOW-INCOME INDIVIDUALS AND FAMILIES**

*Sec. 1500. Purpose; State plans*

Section 1500 states that the purpose of this title is to enable States to provide medical assistance to low-income individuals and families in a more effective, efficient, and responsive manner. A State would be required to provide the Secretary of Health and Human Services (the Secretary) with a plan that sets forth how the State intends to use the funds provided to provide medical assistance. An approved plan would continue in effect unless and until (1) the State amends the plan; (2) the State terminates participation in the program; or (3) the Secretary finds substantial non-compliance of the plan with the program's requirements.

The bill specifies that this title constitutes budget authority in advance of appropriations Acts; the Federal government would be obligated to provide for payment to States. However, no State would be eligible for payments under this Title for calendar quarters beginning before October 1, 1996.

**PART A—ELIGIBILITY AND BENEFITS**

*Sec. 1501. Guaranteed eligibility and benefits*

Section 1501 provides for each participating State to guarantee coverage and benefits to certain population groups as follows:

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 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. At the option of the State, either individuals who meet the disability definition, and income and resource standards established by the State; or individuals under age 65 who meet the disability, income, and resource standards for payment of Supplemental Security Income (SSI) benefits under Title XVI;

E. Elderly individuals who meet the income and resource requirements for payment of SSI benefits under Title XVI;

F. 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; and

G. Individuals and members of families who meet the income and resource 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 March 1, 1996. A State with AFDC standards above the national aver-



age could elect to substitute the national average AFDC standards to determine eligibility under this title.

A guaranteed benefit package (in an amount, duration, and scope specified by the State) would include at least the following:

- 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 and nurse midwife services; and
- K. Early and periodic screening, diagnostic, and treatment (EPSDT) services for individuals under age 21.

Each State would establish criteria for specifying the amount, duration, and scope of benefits provided, subject to Secretarial approval under sections 1526 and 1527.

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 year, the election would continue in effect for the subsequent 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 1511). 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 a spend-down process that allows applicants to deduct medical expenses from income.

A State plan must provide that if any family becomes ineligible to receive assistance under the State program funded under Part A of Title IV as a result of increased earnings from employment, or as a result of the collection or increased collection of child or spousal support, the family shall be eligible for medical assistance under the State plan during the immediately succeeding 12-month period for so long as family income is less than the poverty line.

In the case of a State that maintained a link between medical assistance eligibility and eligibility under Title IV, the State could elect to treat any reference to individuals and members of families who meet March 1, 1996, AFDC income and resource standards as a reference to members of families receiving assistance under Title IV so long as the election would not result in increased Federal expenditures. Each State would have the option to continue medical assistance to an individual who lost Title IV eligibility because of increased employment hours or income.

This section would carry 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 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 and 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 health maintenance organization (HMO) premiums for Medicare beneficiaries. A State could 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.

*Sec. 1502. Other provisions relating to eligibility and benefits*

Supplemental umbrella allotments under Section 1511 could be made for individuals in the following population groups if medical assistance for the guaranteed benefit package were made available to disabled (under SSI standards) or elderly or disabled individuals who are covered under the State plan and meet the State’s eligibility standards in effect as of May 1, 1996.

Each State’s plan would have to describe (a) general eligibility guidelines for low-income individuals who are not covered under subsection (a) or (b) of section 1501 or subsection (a) of this section; (b) the amount, duration, and scope of covered items and services; (c) the State’s delivery method including the use of vouchers, fee-for-service, or managed care arrangements; (d) qualifications of providers and rates of reimbursement for fee-for-service benefits; (e) beneficiary cost-sharing including responsibilities of parents and spouses of recipients; (f) utilization incentives (if any) to encourage appropriate utilization of services; and (g) the State’s provisions for short-term acute care hospitals and children’s hospitals with specified low-income utilization rates.

Guaranteed coverage and benefits would be subject to a State’s eligibility guidelines and Federal limitations on payments to the State including provisions relating to supplemental allotments. A State could deny benefits available to an individual if such benefits were available under Medicare or another public or private health care insurance or program. In the case of an individual who has moved from another State and has resided in the new State for less than 180 days, the State could limit benefits to the benefits that would have been provided in the previous State of residence.

Each State that elected to use its own disability standards would 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 State's fiscal year 1995 Medicaid expenditures attributable to the disabled. States would calculate the minimum amounts excluding payments for emergency services to undocumented aliens.

During the first 8 quarters in which its Title XV plan is in effect, a State would be required to pay federally qualified health centers and rural health clinics rates based on 100 percent of reasonable costs.

A State would be prohibited from denying or excluding coverage on the basis of a preexisting condition. If a State contracted with a capitated organization or other entity and allowed the organization to impose preexisting condition exclusions, the State would be required to provide alternate coverage for any covered services denied as a result.

A State would be prohibited from contracting with a full risk capitated health care organization unless the organization met solvency standards established by the State for private health maintenance organizations. There would be a 3-year exemption for full risk organizations currently contracting with State Medicaid programs. An organization not at full risk would have to meet solvency standards established under the State's plan for medical assistance. States may establish other solvency standards for capitated health organizations that are controlled by one or more federally qualified health centers or rural health clinics. For these purposes, "control" means the possession, whether direct or indirect, of the power to direct 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.

A State must provide that the amount of funds expended under Medicaid at rural health clinics and federally qualified health centers for eligible low-income individuals for a fiscal year is not less than 85 percent of expenditures under Title XIX for medical assistance in the State during fiscal year 1995 which were attributable to expenditures for medical assistance for rural health clinic services and federally qualified health center services.

Beginning with fiscal year 2001, a State may provide in its State plan for a lower percentage of expenditures than the minimum percentage of 85 percent, if the State determines to the satisfaction of the Secretary that: (1) the health care needs of low-income populations can be reasonably met without the set-aside percentage; (2) the performance goals established under section 1521 relating to such populations can be reasonably be met without the set-aside percentage; and (3) the health care needs of low-income individuals can reasonably be met without the level of expenditure for such services otherwise required under the set-aside.

#### *Sec. 1503. Limitations on premiums and cost-sharing*

For guaranteed populations and optional population groups for which umbrella supplemental funding is available, States cannot impose any premium, enrollment fee, or similar charge. For other populations, the State may impose a premium or enrollment fee if it is related to the individual's income and does not exceed 2 percent of the individual's gross income.

For guaranteed populations and optional populations for which umbrella supplemental funding is available, States may not impose any cost-sharing with respect to items and services unless the amount is nominal in amount. An amount is nominal if it does not exceed 6 percent of the amount otherwise payable, (or, if greater, 50 cents). For other populations, the State may not impose any cost-sharing with respect to items and services unless such cost sharing is pursuant to a public cost-sharing schedule and such cost-sharing is not in excess of the average cost-sharing imposed in the State for health care plans offered by health maintenance organizations.

For guaranteed populations and optional populations for which umbrella funding is available, additional cost-sharing could be imposed under the following conditions: (1) to discourage the inappropriate use of emergency medical services; (2) to encourage the use of primary and preventive care; and (3) to participate in employment training programs, drug or alcohol abuse treatments, and counseling programs. In these cases, the additional cost-sharing may not exceed the average cost-sharing imposed for health plans offered by health maintenance organizations in the State.

For other populations, additional cost-sharing could be imposed under the previously described conditions. In these cases, the additional cost-sharing may not exceed twice the average cost-sharing imposed for health plan offered by health maintenance organizations in the State. Finally, an individual who is eligible for benefits for items and services under the State plan may not be billed by the provider for such item or service, other than such amount of cost-sharing as is permitted under this section.

*Sec. 1504. Description of process for developing capitation payment rates*

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 would have to 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; and (c) a process for disseminating actuarial information to organizations on capitation rates, historical fee-for-service cost, and utilization. The State would also have to provide for public notice and an opportunity to comment on this information before each contract year; the notice would have to 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).

*Sec. 1505. Preventing spousal impoverishment*

Current Medicaid law includes rules known as "spousal impoverishment protection" 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. Section 1505 carries these rules over into Title XV to prevent impoverishment of the spouse remaining in the community.

The income eligibility rules would not permit income of community spouses to be used in determining the nursing home spouse's eligibility unless the income were actually made available to the institutionalized spouse. As in current law, after eligibility has been determined, States would be 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 would be the greater of one-half of the couple's resources at the time the institutionalized spouse entered 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.)

*Sec. 1506. Preventing family impoverishment*

States would be prohibited from requiring an adult child or any other individual (other than the applicant or recipient of services or the applicant's or recipient's spouse) to contribute to the cost of nursing facility or other long-term care services. In addition, for such services, States could hold financially responsible only the applicant's or recipient's spouse, or the parent of a child who is under age 21 or is disabled. The bill would carry over current law policy regarding the imposition of liens on property.

*Sec. 1507. State flexibility*

Subject to the coverage and benefit guarantees in section 1501, including the guarantees for Medicare beneficiaries, each State would determine (1) the items and services for which medical assistance would be provided, the limits on them, and which providers could provide them; (2) differences, if any, in the medical assistance that would be provided in geographical areas of the State; (3) the extent to which amount, duration, or scope of services would be comparable among eligible individuals; and (4) the extent to which eligible individuals would have freedom of choice of providers. States would be permitted to specify coverage determinations in their State plans.

Title XV would 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.

*Sec. 1508. Private rights of action*

This section sets forth a process for administrative and judicial remedies under this Act. Each State would be required to provide an administrative procedure with a hearing for an individual who alleged a denial of eligibility for benefits or 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 Supreme Court for review. There would be no State private right of action for a provider or health plan.

The Secretary could bring an action in Federal court against a State on behalf of an individual regarding the provision of benefits guaranteed under the State plan. However, the Secretary could not be sued for failure to bring an action against a State or with regard to any action brought against a State.

#### PART B—PAYMENTS TO STATES

##### *Sec. 1511. Allotment of funds among States*

###### *(a) Allotments*

Beginning with fiscal year 1997, the Secretary would 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), any supplemental per beneficiary umbrella allotment (subsection (g), below), and any supplemental allotment for Indian health services (subsection (h), below). The sum of the base obligation allotments for all States could not exceed the aggregate limit on base obligation authority for a fiscal year. The aggregate limit would be 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 would be set at 0.950 for fiscal year 1997, 0.986 for fiscal year 1998, and 0.998 for each subsequent fiscal year.

A State would be permitted to carry over a particular year's unspent obligation allotment into the following year unless the State received a supplemental umbrella allotment in the particular year. No carryover would be permitted of supplemental allotments for services to illegal aliens or Indian health services. Any carryovers of base obligation allotments or changes in allotments due to election of an alternative growth formula (subsection (c) below) would not be included in the aggregate limit on base obligation authority.

A State's base obligation amount for fiscal year 1997 would be reduced by Title XIX obligations entered into for the State for the year. Fiscal year 1997 allotments to a State would not affect obligations for any prior fiscal year. The amount established to be obligated to a State for a quarter beginning during or after fiscal year 1997 would 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 would be 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 District of Columbia, a fiscal year's base obligation allotment would 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 would 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 fiscal year 1997, the obligation amount would 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 fiscal year 1997). By November 1, 1996, the Secretary would be 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 fiscal year 1997 pool would be reduced to account for Title XIX obligations.

*(b) Base pool of available funds*

Allotments would be made from a fixed pool of available funds. For fiscal year 1997, the pool amount would be reduced to account for obligations incurred, but for which Federal payment has not been made, under Title XIX before the beginning of fiscal year 1997. The base pool amount for fiscal year 1997 would be \$103.4 billion (this represents outlay allotments to the States and the District of Columbia plus allotments to Commonwealths and Territories). The pool would be \$108.4 billion for fiscal year 1998, \$113.7 billion for fiscal year 1999, \$119.1 billion for fiscal year 2000, \$124.9 billion for fiscal year 2001, and \$130.9 billion for fiscal year 2002. For later years, the pool amount would 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 would be designated the "national growth percentage" (NGP).

*(c) State base outlay allotments*

For fiscal year 1996, the base outlay allotment for each of the 50 States and the District of Columbia would be determined in accordance with a statutory table that shows the amount for each State. For fiscal year 1997 and later years, the outlay allotment would be based on a formula allocation from the fixed pool of total medical assistance funds.

For fiscal year 1997 and later years, each State's base outlay allotment from the pool would equal a needs-based amount times an adjustment factor, subject to certain floors and ceilings. The needs-based amount for a State would be the product of its aggregate need and its old Federal medical assistance percentage (FMAP) for the previous year. The adjustment factor would be 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 fiscal year 1998, a higher floor would apply for certain States based on the one-time increase in the State's allotment from fiscal year 1996 to fiscal year 1997. For a State whose fiscal year 1996-97 increase was greater than 95 percent of the fiscal

year 1997 NGP, the floor would be 90 percent of the NGP for the fiscal year.

A State's outlay allotment for a fiscal year would be limited to the product of the State's allotment for the preceding year and an applicable percent, generally 126.98 percent of the NGP for fiscal year 1996 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 would be 150 percent of the NGP for a fiscal year after fiscal year 1997. The Federal spending per resident-in-poverty rate would be 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 would be \$2.622 billion except that the amount would be increased by \$37,048,207 for fiscal year 1997. To receive the full amount, the State would have to 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 could apply to the Secretary for the allotment otherwise determined for a fiscal year if the State notified the Secretary by the preceding March 1 that it would be able to spend enough to qualify for the allotment. Nevada's allotment would be 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 of Columbia could elect an alternative growth rate formula. A portion of the State's allotment for fiscal year 1996 could be deferred and applied to increase its allotment for 1 or more subsequent years, so long as the total of the increases did not exceed the amount deferred previously. (Obligation allotments for the State would be adjusted accordingly.)

*(d) State aggregate expenditure need determined*

As stated above, a State's base outlay allotment would be based, in part, on its aggregate need. The State's aggregate need would be 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 would be based on a State's mix of population groups—individuals who are over 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 would be based on the annual average wages for hospital employees in the State. National average spending per resident in poverty would be computed for fiscal year 1997 using fiscal year 1994 data; for fiscal year 1998 and later years, the figure would be increased by the NGP.

*(e) Publication of obligation and outlay allotments*

The Secretary would publish preliminary allotments for each fiscal year by April 1 of the preceding fiscal year. The General Accounting Office (GAO) would report to Congress by May 15 on the



extent to which the allotments comply with statutory requirements. The Secretary would publish final allotments by July 1, taking into account the GAO analysis and explaining any changes from the preliminary allotments; the Secretary could not modify allotments thereafter. By August 1, GAO would report to Congress on the statutory compliance of the final allotments. Deadlines would be extended according to the date of enactment of Title XV.

*(f) 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 of all the States, based on estimates prepared by the Immigration and Naturalization Service. For an eligible State, the amount of the supplemental allotment would be based on the ratio of the number of undocumented aliens residing in the State to the number in all eligible States. Supplemental pool amounts would be \$500 million for fiscal year 1998, \$600 million for fiscal year 1999, \$700 million for fiscal year 2000, \$800 million for fiscal year 2001, and \$900 million for fiscal year 2002.

*(g) Supplemental per beneficiary umbrella allotment for States with excess growth in certain population groups*

The bill provides for supplemental umbrella allotments to be available to States that experience unanticipated growth in certain population groups, e.g., 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 fiscal year 1997, a State's outlay allotment would be increased 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 would be 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, would be the percentage 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 would be 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 would have to provide assurances that it would obligate the full amount of the allotment and any carryover from a previous year during the

fiscal year. Also, the State would be 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 would be reduced for a less-than-anticipated number of individuals in a population group.

*(h) Allotment for medical assistance for services provided in Indian Health Service and related facilities*

This subsection establishes a supplemental allotment pool for each of fiscal years 1996 through 2000 to provide medical assistance to Indians in eligible States. A State eligible for a supplemental allotment under this subsection would be a State with at least one Indian Health Service facility. Pool amounts increasing from \$89 million in fiscal year 1998 to \$111 million in fiscal year 2002 would be allocated among eligible States on the basis of each eligible State's share of Native American residents as estimated by the Secretary of the Interior.

*Sec. 1512. Payments to States*

Subject to the allotment limits, payments to States for medical assistance and medically related services would equal the State's spending for the services times the applicable FMAP. This would be 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 would equal 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 would be 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 could not be less than 40 percent or greater than 83 percent. The FMAP for Commonwealths and Territories would be 50 percent. The FMAP for services in Indian Health Service facilities (and for specified facilities of Indian tribes that are not Indian Health Service facilities) would continue to be 100 percent; in addition, no State matching would be required for services to unlawful aliens. For administrative services, the Federal matching percentage would generally be 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 would be retained.

Payments to States could be adjusted to reflect over-estimations and under-estimations of supplemental umbrella allotments.

For the Commonwealths and Territories, the old and new FMAPs would be 50 percent. Special rules would apply to determination of the FMAP for Alaska. The FMAP would be 100 percent for services provided by an Indian Health Service facility, an Indian health program operated by an Indian tribe or tribal organization, or an

urban Indian health program. No State match would be required for emergency services provided to unlawful aliens.

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 could be considered as the State's share. The term "public funds" would include funds appropriated to the State or transferred from public agencies. Such funds could be Federal funds authorized by Federal law to be used to match other Federal funds.

The provisions of section 1903(w) regarding provider tax and donation restrictions as in effect on June 1, 1996 shall apply under this title in the same manner as they applied under Title XIX. However, beginning 2 years after the date of enactment of this title, the Secretary, taking into account the report submitted under section 1513(j)(2) may waive, upon application of a State, the requirements of section 1903(w) if the Secretary determines that the waiver would not financially undermine the program under this title and would not otherwise be abusive.

The section requires the Comptroller General to conduct a study to guide the Secretary's determinations. The study shall include the methods by which States provide for financing their share of expenditures under this title. The study also shall include an examination of the use of provider taxes and donations, as well as inter-governmental transfers. The report is due 2 years after the date of the enactment of this title.

*Sec. 1513. Limitation on use of funds; disallowance*

States could use Federal funds only to carry out the purposes of Title XV. Federal payments would 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 could not exceed 5 percent of total spending under the State's plan. Spending for administration could not exceed the sum of \$20 million plus 10 percent of total expenditures. This limit would 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 would not be 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 nonlawful aliens who are otherwise eligible for medical assistance would be limited to expenditures for emergency services not related to an organ transplant procedure. Payment could not be made for prescription drugs unless the manufacturer had entered into a master rebate agreement with the Secretary (see below) and was in compliance with current requirements section 8126 of Title 38, including those for a master agreement with the Secretary of Veterans Affairs.

No payment would be made for abortions or for coverage that includes abortions except in case of a pregnancy resulting from rape or incest, or in case of life endangerment of the mother. No payment would be made for coverage of any drug, product, or service furnished for assisting with death or suicide.

#### PART C—ESTABLISHMENT AND AMENDMENT OF STATE PLANS

##### *Sec. 1521. Description of strategic objectives and performance goals*

Each State would be 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. Goals and objectives related to rates of childhood immunizations and reductions in infant mortality and morbidity would be required. With regard to other objectives and goals, the State could 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 would be required to establish one or more performance goals for each strategic objective and describe how performance would be measured and compared against goals. Strategic objectives would be required to cover a period of at least 5 years and would have to be updated and revised at least every 3 years. Performance goals would have to be established for dates not more than 3 years apart.

##### *Sec. 1522. Annual reports*

By March 31, each State with a State plan in effect for the preceding fiscal year would be required to submit a report to the Secretary and the Congress on program activities and performance for the previous Federal fiscal year. Each report would be 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; and 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.

##### *Sec. 1523. Periodic, independent evaluations*

During fiscal year 1999 and at least every third year thereafter, each State would be required to provide an 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.

*Sec. 1524. Description of process for State plan development*

Each State plan would be required to include a description of the process under which the plan was developed consistent with section 1525.

*Sec. 1525. Consultation in State plan development*

Before submitting a plan or amendment to the Secretary, each State would be 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 addition, the State would be required to provide for consultation with one or more advisory committees established by the State.

An amendment to the State plan would be an amendment which makes a material and substantial change in eligibility or benefits.

*Sec. 1526. Submittal and approval of State plans*

Each State would be required to submit to the Secretary a plan that meets the requirements of Title XV. Unless the Secretary found that a plan was in substantial noncompliance with the requirements of Title XV, the plan would be approved and would be effective beginning with the date specified in the plan, but no earlier than 60 days after the plan is submitted.

States would have the option of submitting the State plans that they used under Title XIX (including a plan provided under 1115 waiver) so long as the plan met Title XV requirements including the guarantees under section 1501 and the funding provisions under section 1511.

*Sec. 1527. Submittal and approval of plan amendments*

A State would be permitted to submit an amendment to its State plan at any time. However, any amendment that would eliminate or restrict eligibility or benefits under the plan could not take effect unless the State certified that there was prior or contemporaneous public notice of the change, as provided under State law. Nor could it be effective for longer than a 60-day period unless the amendment had been transmitted to the Secretary before the end of the period. Any other amendment could 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 had been transmitted to the Secretary. These requirements would not apply to an amendment submitted on a timely basis in response to an order of a court or the Secretary.

*Sec. 1528. Process for State withdrawal from program*

A State could 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 would 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 the case of withdrawal other than at the end of a Federal fiscal year, the Secretary would prorate allotments.

*Sec. 1529. Sanctions for noncompliance*

The Secretary would be required to promptly review State plans and plan amendments to determine if they substantially comply with requirements. If the Secretary determined that a plan or plan amendment substantially violated the requirements and, within 30 days of submittal, provided written notice to the State, the Secretary would be required to issue an order specifying that the plan or amendment would 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 would be required to consult with the State and consider any clarifications and additional information submitted. The Secretary would be required to explain and justify any determination inconsistent with any previous determination. A plan or amendment would be considered to substantially violate a requirement if a provision were material and substantial in nature and effect, and were inconsistent with an express requirement. Failure to meet a strategic objective or performance goal would not be considered a substantial violation. A State could appeal the Secretary's determination through administrative and judicial procedures.

Any order to withhold funds from a State would relate only to the portions of the State plan or amendment which substantially violated a requirement of Title XV. The Secretary could suspend withholding of funds during reconsideration or administrative and judicial review.

The Secretary would be required to provide for a process under which an individual could complain of a State's failure to comply with the requirements of Title XV or the State plan.

*Sec. 1530. Secretarial authority*

The Secretary would be permitted to negotiate a satisfactory resolution to any dispute concerning the approval of a plan or the compliance of a plan. The Secretary would be prohibited from delegating authority for approval of plans other than to the Administrator of the Health Care Financing Administration. The Administrator would be prohibited from making any further delegation of such authority. The Secretary would be 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.

PART D—PROGRAM INTEGRITY AND QUALITY

*Sec. 1551. Use of audits to achieve fiscal integrity*

Each State plan would be 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 determined that a State's audit was performed in substantial violation of the Chapter 75 provision, the Secretary would be permitted to conduct a verification audit or require that the State do so. Within 30 days of completion of an audit or verification audit, the State would be required to provide a copy of the audit report to the Secretary along with the State's response to the auditor's rec-

ommendation. The State also would be required to make the audit report available for public inspection.

Each State would be 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 would be 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 would be required to provide that the records of any provider could be audited to ensure that proper payments were made under the plan.

*Sec. 1552. Fraud Prevention Program*

To detect fraud and abuse by beneficiaries, providers, and others, each State plan would be required to have a program that includes the following. Certain program contractors and providers would be 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) would be required to supply information on ownership, controlling interests, and conviction of certain offenses upon request by the Secretary or the State agency. A State could exclude a provider from participation in the State plan on its own initiative, and would be 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 was terminated, suspended, sanctioned, or prohibited from participating under a State's plan, the State agency would be required to notify the Secretary and, in the case of a physician, the State medical licensing board. States would be required to provide information and access to information respecting sanctions taken against practitioners and providers by State licensing authorities.

*Sec. 1553. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers*

As under current law, each State would be 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 would be 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 would be required to provide the Secretary with access to whatever documents the Secretary needed to determine the facts and circumstances concerning the actions taken. Such information would have to be provided under arrangements made by the Secretary, in a form the Secretary determined 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 would be required to safeguard the confidentiality of information furnished. However, any party authorized to disclose

information would be permitted to do so. In implementing this section, the Secretary would be required to provide for maximum coordination of section 422 of the Health Care Quality Improvement Act of 1986.

*Sec. 1554. State fraud control units*

Each State would be required to provide for a State fraud control unit (FCU) unless the State demonstrated that such a unit would not be cost-effective because minimal fraud existed, and that beneficiaries would be protected from abuse and neglect without such a unit. The FCU would be required to be separate and distinct from the State agency responsible for the operation and administration of the State's medical assistance plan. It would have to be a part of the State Attorney General's office or coordinate with that office. It would be required to have statewide prosecutorial authority or the ability to refer to local prosecutors. The FCU would 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 would be required to provide for the collection of overpayments it had discovered were made to health care providers. It would be required to employ auditors, attorneys, investigators, and other necessary personnel.

*Sec. 1555. Recoveries from third parties and others*

Each State would be 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 would be 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 exceeded payment that would be made under the plan. For violation of the collection provision, a State could provide for a payment reduction up to 3 times the amount sought to be collected.

A State would be required to prohibit any health insurer, when enrolling an individual or when 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 would be 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 would be required to provide for mandatory assignment of rights of payment for medical support and care to beneficiaries.

Each State would be required to have in effect laws relating to medical child support. Each State would have to 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 would have to require the employer and insurer to per-



mit 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 would be required to (1) 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; (2) require an insurer, in the case of a child who has health coverage through the insurer of a noncustodial parent, to provide information to the custodial parent; (3) permit the custodial parent to submit claims for covered services without the approval of the noncustodial parent, and make payment on claims to the custodial parent, the provider, or the State agency; and (4) 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 would be permitted to take appropriate action to adjust or recover from an individual or the individual's estate any amounts paid as medical assistance under a State plan. Such action could include the imposition of liens against the property or estate of an individual to the extent consistent with policies discussed above in section 1501.

*Sec. 1556. Assignment of rights of payment*

As a condition of eligibility for medical assistance under a State's plan, an individual would be 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 would be 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 would be required to cooperate with the State in identifying and providing information to assist the State to pursue any liable third party unless the individual had good cause for refusing to cooperate as determined by the State. The State would be 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 would 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 would be paid to the individual.

*Sec. 1557. Quality assurance requirements for nursing facilities*

OBRA 87 comprehensively revised Medicaid requirements for nursing homes participating in the program. These provisions, collectively referred to as 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 may impose against nursing homes found to be out of compliance with the requirements for participation.

With certain exceptions, the proposal would follow current law for purposes of establishing requirements for participating nursing facilities, the survey process, and the enforcement authority available to States and the Secretary. 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.

*Sec. 1558. Other provisions promoting program integrity*

State agencies responsible for surveying health care facilities or organizations would be required to make public, in readily available form and place, pertinent findings on the compliance of the facility or organization with the requirements of law. Persons or institutions providing services under the State's plan would be required to keep such records (including ledgers, books, and original evidence of costs) as are necessary to fully disclose the extent of the services provided, and to furnish information about payments claimed, as the State may from time to time request.

## PART E—GENERAL PROVISIONS

*Sec. 1571. Definitions*

Medical assistance would be defined as including a list of services similar to those specified under current law, and, in addition, enabling services to increase accessibility to primary and preventive services. "Medicare cost sharing" would include Medicare pre-

miiums, coinsurance, and deductibles. The definition of EPSDT services would be modified to eliminate mandatory coverage of services not covered under a State's plan. Family planning services and supplies would be changed to read pre-pregnancy family planning services and supplies. The bill would add "medically related services"—services reasonably related to, or in direct support of, the State's attainment of one or more of its strategic objectives and performance goals.

"Eligible low-income individual" would mean an individual who has been determined eligible by the State and whose family income does not exceed a percentage specified in the plan that is not greater than 275 percent of the poverty line. In determining income, States would be permitted to exclude costs incurred for medical care. In the case of a child receiving payments under a Title IV foster child or adoption assistance program, only the child's income would be counted in determinations of family income. Title XV would specifically continue "Katie Beckett" eligibility rules. That is, at the option of the State, family income limits would not apply to an individual 18 or younger, disabled under SSI, who requires an institutional level of care, and can be cared for outside an institution.

Definitions of child, pregnant woman, and poverty line would be the same as in current law.

Rural health clinics and federally qualified health centers (FQHCs) would have the same definitions as in Medicare law. FQHCs would include outpatient health programs or facilities operated by tribes or tribal organizations under the Indian Self-Determination Act or by an urban Indian organization receiving funds under Title V of the Indian Health Care Improvement Act.

*Sec. 1572. Treatment of territories*

The Secretary would retain the current law authority, with respect to medical assistance programs in jurisdictions other than the 50 States and the District of Columbia, to waive or modify any requirement other than a waiver of the Federal matching share of expenditures, the annual expenditure limit, or the requirement that payment may be made only with respect to amounts expended for certain care and services.

*Sec. 1573. Description of treatment of Indian Health Service facilities*

In a State in which there is at least one Indian Health Service facility, the State plan would have to describe (1) what provision, if any, has been made for payment of items and services furnished by the facilities, and (2) how medical assistance will be provided to eligible Indians, as determined by the State in consultation with appropriate Indian tribes and tribal organizations.

*Sec. 1574. Application of certain general provisions*

Sections of Title XI of the Social Security Act that relate to fraud and abuse would apply to States under Title XV in the same manner as they apply under Title XIX.

*Sec. 1575. Optional master drug rebate agreements*

No Federal funds would be available to a State for covered outpatient drugs unless the drug's manufacturer had 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 would not be required to participate in the master rebate agreement. States would be permitted to enter into rebate agreements on their own. States could opt to cover drugs for which there was no rebate agreement in effect. If a State had a rebate agreement already in effect which provided 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 would be considered to meet the requirements of the master rebate agreement and the State would be considered to have elected to participate in the master agreement.

Under the master agreement, a drug manufacturer would be required to provide a rebate to each State not later than 30 days after receipt of certain information from participating States. Not later than 60 days after the end of a rebate period, each State participating in the master rebate agreement would be 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 would be permitted to audit the State's information. Adjustments would be made as necessary.

Not later than 30 days after the end of a rebate period, each manufacturer subject to the master agreement would be 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 would have to report the AMP as of October 1, 1990. The Secretary would be 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 would be \$10,000 paid to the Treasury for each day information was not provided. After 90 days, the agreement would be suspended until the information was reported. For the provision of false information, a civil money penalty of up to \$100,000 could be imposed in addition to other penalties. Information disclosed by manufacturers or wholesalers would be confidential. The Secretary of Health and Human Services and the Secretary of Veterans Affairs, and a State agency or contractor would be prohibited from disclosing information in a form that discloses the identity of a specific manufacturer or wholesaler or their prices, except as the Secretary of Health and Human Services determines is necessary or to permit review by the Comptroller General and the Congressional Budget Office.

Unless terminated, a master rebate agreement would be effective for at least 1 year and automatically renewed for 1 year. The Secretary could terminate an agreement for violation of requirements or for good cause. A manufacturer could terminate participation for any reason. In case of termination, another agreement could not be entered into with that manufacturer for at least 1 calendar quar-

ter, unless the Secretary found good cause for earlier reinstatement.

The provision provides for a basic rebate and an additional rebate. The basic rebate would be 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 would be 15.1 percent of the AMP. The best price would be the lowest price available from the manufacturer during the rebate period. The additional rebate amount would be based on the amount, if any, by which the AMP of a product exceeded 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 would be 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 participated in the master rebate agreement would be 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 would be permitted to operate a drug use review program under standards established by the State. The Secretary would be required to encourage each State to establish a point-of-sale electronic system for processing claims for covered outpatient drugs. The Secretary would be 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 would 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 could be included in the determination of best price.

If the plan of a State participating in the master rebate agreement included coverage of drugs that could be sold without a prescription (known as over-the-counter drugs), those drugs would be regarded as covered outpatient drugs for purposes of the State's participation in the agreement.

Section 1575(a)(4)(b) includes a provision to ensure that patients share the benefit of discounted pharmaceutical prices made available under section 340B of the Public Health Service Act. The provision requires the Office of Drug Pricing (ODP) to establish an allowable dispensing fee for such drugs. Such dispensing fee should be comparable to those provided for by government programs such as Medicaid and State pharmacy assistance programs. ODP may also consider an additional dispensing fee for blood clotting factors if and where ODP finds specific evidence of actual additional handling costs necessarily incurred for dispensing blood clotting factor.

*Sec. 2004. State election; termination of current program; and transition*

The Medicaid program and Title XIX of the Social Security Act would be repealed effective October 1, 1997, except that the repeal of the Vaccines for Children's program in section 1928 of the Act would be effective on enactment. Distribution of vaccines purchased and delivered to States before the date of enactment would not be affected; however, no vaccine could be purchased under section 1928 after that date. Services authorized under sections 1929 and 1930, home and community care for functionally disabled elderly individuals and community supported living arrangements services for the developmentally disabled, would be continued through fiscal year 1996.

The Secretary would be prohibited from entering into any obligation with a State under Title XIX for expenses incurred on or after the earlier of October 1, 1997, or the effective date of the State's plan under Title XV. A State that submitted claims for payment under Title XIX after the date of enactment would be deemed to have accepted the obligation limitation including the formula for computing the obligation. Otherwise, the Federal government would have no obligation to provide payment for Title XIX claims. Effective October 1, 1996, neither Title XIX nor Title XV would provide Federal entitlement for an individual (including any provider). No Federal payments would be made for Title XIX obligations unless claims were submitted by the State by April 1, 1997.

For any payment made under Title XIX before March 1, 1996, for which disallowance was not taken or not completed by that date, the Secretary would be required to discontinue the disallowance proceeding. If the disallowance had been taken as of the date of enactment, the Secretary would be required to rescind any effected payment reductions and return payments to the State.

No judicial or administrative decision imposed under Title XIX would have any application under Title XV. A State could seek abrogation or modification of any decisions after the State terminated its State plan under Title XIX. A cause of action regarding a State's establishment or maintenance of payment rates, or claim for reimbursement under Title XIX which was not final as of the date of enactment, could be brought or continued.

Prior legislation that (1) voids any determination that certain Michigan hospitals are institutions for mental diseases and (2) applies to the enrollment mix of medical assistance recipients in the Dayton Area Health Plan would be extended to October 1, 1997.

Section 1128(h)(1) of the Social Security Act, regarding anti-fraud provisions, would be amended to included Title XV.

Not later than 90 days after enactment, the Secretary would be required to submit technical and conforming amendment to the appropriate committees of Congress. Any legal reference to Title XIX would be deemed to be a reference to the Title as in effect on the day before enactment of Title XV.

*Sec. 2005. Integration demonstration project*

The Secretary would be authorized to waive Medicare and medical assistance requirements to allow States to conduct demonstration projects for individuals dually eligible for both programs. A

State could restrict the time period during which participants could disenroll from capitated programs, but could not require a dually eligible individual to participate in a project.

A project could not be approved unless the State showed that Federal expenditures would be exceed the expenditures that would have been made without the project. Any savings achieved under the project could 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 could be used to expand the scope of services under the project.

Demonstrations would be limited to 10 projects conducted for initial periods or 5 years and extended indefinitely if successful. With 90 days notice, the Secretary could terminate any demonstration project that was not in substantial compliance with the terms of approval. Applications from a State, or a coalition of States, would be submitted to the Secretary who would be required to approve or deny such applications within 90 days of receipt.

The Secretary would be required to establish quality standards for demonstration projects. The standards would 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.

## TITLE II, SUBTITLE B—OTHER PROVISIONS

### PURPOSE AND SUMMARY

Subtitle B of Title II covers three provisions of H.R. 3507, the Personal Responsibility and Work Opportunity Act of 1996, which fall within the jurisdiction of the Committee on Commerce, particularly as they relate to the eligibility of aliens to Federal benefits and the Low Income Home Energy Assistance Program.

Part 1 of Subtitle B, Involvement of Commerce Committee in Federal Government Position Reductions, provides that the Committee on Commerce should be consulted regarding reductions in Federal Government positions when the reduction applies to a program within the jurisdiction of the Commerce Committee.

Part 2 of Subtitle B, Restricting Public Benefits for Aliens, addresses the eligibility of aliens for Federal public benefits.

Part 3 of Subtitle B, Energy Assistance, amends provisions of the Low Income Home Energy Assistance Act relating to determination of the excess shelter expense deduction under the Food Stamp Act.

### BACKGROUND AND NEED FOR LEGISLATION

This legislation seeks to further streamline operation of this Nation's public assistance programs, while maintaining appropriate mechanisms for oversight of program modifications. Part 1 of Subtitle B provides authority for the Commerce Committee to be fully informed regarding agency or department actions taken to comply with legislative programs.

Part 2 of Subtitle B addresses the eligibility of aliens for Federal public benefits. Specifically, Part 2 includes the following provisions which would:

(A) deny to illegal immigrants all Federal benefits except: (1) emergency medical services under Medicaid; (2) immunizations; and (3) testing and treatment for communicable diseases that the Secretary of Health and Human Services has determined is needed to protect the public health;

(B) authorize States to determine the eligibility of legal aliens to Medicaid. Refugees, asylees, those who have lived and worked in the U.S. for 10 years, and veterans could not be denied coverage;

(C) provide that legal aliens could not be eligible for any Federal means-tested program for 5 years after entry into the U.S. except for refugees, asylees, and veterans; and

(D) require that the Attorney General, in consultation with the Secretary of Health and Human Services, to promulgate regulations to provide for a verification system to carry out these provisions.

The provisions contained in Part 2 are similar to provisions included in H.R. 4, the Personal Responsibility and Work Opportunity Act of 1995, which passed the House in the First Session and was vetoed by the President.

Part 3 of Subtitle B amends provisions of the Low Income Home Energy Assistance Act relating to determination of the excess shelter expense deduction under the Food Stamp Act. Under current law, section 2605(f) of the Low Income Home Energy Assistance Act of 1981 excludes home energy assistance benefits provided directly or indirectly to eligible households from the definition of income and resources for purposes of any Federal or State law. Paragraph (1) establishes the general rule, and paragraph (2) clarifies that Low Income Home Energy Assistance Program (LIHEAP) benefits received indirectly are treated as if they were received directly, ensuring they are excluded from the definition of income and resources for purposes of other Federal and State laws, and provides that LIHEAP benefits are to be treated as expended for purposes of determining excess shelter expense deductions under the Food Stamp Act of 1977.

The key phrase in section 2605(f) is “[n]otwithstanding any other provision of law unless enacted in express limitation of this paragraph” LIHEAP benefits—whether received by households directly or indirectly—are excluded from income and resources for purposes of “any Federal or State law.” The list of laws following the phrase “any Federal or State law” is illustrative only. For example, if the Food Stamp Act of 1977 were amended to provide that all LIHEAP benefits are considered income and resources for purposes of the Food Stamp Act, that would override the reference to “food stamps” in paragraph (1), since it would be an “express limitation of this paragraph.”

Both paragraph (2) and the phrase “provided directly to, or indirectly for the benefit of” in paragraph (1) in current law accomplish the same end: ensuring that benefits received indirectly by households are encompassed by the exclusion in section 2605(f). Otherwise, LIHEAP benefits received indirectly would be considered in-



come and resources for purposes of other Federal and State laws, and benefits received by households under other programs could be reduced. Indirect receipt of benefits is important in the context of LIHEAP because in many cases the benefits are paid directly to the utility on behalf of the household.

In addition to providing that indirect benefits are included in the general rule in paragraph (1), paragraph (2) treats LIHEAP benefits received as expended for purposes of determining excess shelter expense deductions under section 5(e) of the Food Stamp Act of 1977. Under section 5(e), the excess shelter expense deduction is only available to households whose expenditures exceed 50 percent of their monthly income. By treating all LIHEAP benefits as household expenditures, paragraph (2) could increase eligibility for the excess shelter expense deduction if households actually receive monthly LIHEAP benefits in excess of monthly energy costs. In that case the excess LIHEAP benefit would be treated as a household shelter expenditure and increase expenditures compared to costs. Under section 5(e) of the Food Stamp Act of 1977, only households whose expenditures exceed 50 percent of household income are eligible for the excess shelter expense deduction.

Part 3 of Subtitle B amends current law to provide that home energy assistance payments or allowances shall be considered income for purposes of the Food Stamp Program.

#### HEARINGS

The full Committee on Commerce held a hearing on H.R. 3507, the Personal Responsibility and Work Opportunity Act of 1996, on June 11, 1996. Testifying before the committee on June 11, 1996, were: The Honorable Donna E. Shalala, Secretary, Department of Health and Human Services; Stephen McConnell, Ph.D., Chairman, Long Term Care Campaign; Mr Joseph Teefey, Deputy Director, Department of Medical Assistance Services, Commonwealth of Virginia; and Mr. Gail L. Warden, President and CEO, Henry Ford Health System, representing the American Hospital Association.

#### COMMITTEE CONSIDERATION

On June 13, 1996, the committee met in open session and ordered Subtitle B of Title II, Provisions, transmitted to the House Committee on the Budget for inclusion in the fiscal year 1997 Welfare and Medicaid Reform Budget Reconciliation Act, as amended, by a voice vote.

#### ROLLCALL VOTES

Clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, requires the committee to list the recorded votes on the motion to report and on amendments thereto. There were no recorded votes taken in connection with ordering Subtitle B of Title II transmitted or in adopting the amendment. The voice votes taken in committee are as follows:

#### VOICE VOTES

Bill: Committee Print entitled "Subtitle II, Subtitle B—Other Provisions."

Amendment: Amendment by Mr. Pallone re: strike the provision relating to the Low Income Home Energy Assistance Program.

Disposition: Agreed to, as amended by unanimous consent, by a voice vote.

Motion: Motion by Mr. Bliley to order the Committee Print entitled "Subtitle II, Subtitle B, Other Provisions," as amended, transmitted to the Committee on the Budget for inclusion in the fiscal year 1997 Welfare and Medicaid Reform Budget Reconciliation Act.

Disposition: Agreed to, by a voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the committee held a legislative hearing and made findings that are reflected in this report.

#### COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the committee by the Committee on Government Reform and Oversight.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the committee finds that Subtitle B of Title II would result in no new or increased budget authority or tax expenditures or revenues.

#### COMMITTEE COST ESTIMATE

The committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974. [See consolidated Congressional Budget Office Cost Estimate on page 1940.]

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee finds that the Subtitle B of Title II would have no inflationary impact.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

## TITLE II, SUBTITLE B—OTHER PROVISIONS

PART 1—INVOLVEMENT OF COMMERCE COMMITTEE IN FEDERAL  
GOVERNMENT POSITION REDUCTIONS*Section 2101. Involvement of Commerce Committee in Federal Government position reductions*

Section 2101 provides that reports made by the Secretaries of certain agencies regarding determinations on reductions in Federal Government positions with respect to programs within the committee's jurisdiction shall be provided to the Committee on Commerce.

## PART 2—RESTRICTING PUBLIC BENEFITS FOR ALIENS

## Subpart A—Eligibility for Federal Benefits

*Section 2211. Aliens who are not qualified aliens ineligible for Federal benefits*

Section 2211 provides that an alien who is not a qualified alien is not eligible for any Federal public benefit with the following exceptions: (1) emergency medical services under Title XIX or Title XV; (2) public health assistance for immunizations; and (3) public health assistance for testing and treatment of a serious communicable disease to prevent the spread of the disease.

A Federal public benefit is defined as: (a) any grant, contract, loan, professional license, or commercial license provided by an agency, or appropriated by funds, of the United States and (b) any retirement, welfare, health, disability, or other similar benefit for which payments or assistance are provided by an agency of the U.S. (But only if such grant, contract, loan, license or program is within the jurisdiction of the Committee on Commerce). Such term does not apply to a contract, professional license, or commercial license for a nonimmigrant whose visa is related to employment or with respect to benefits for a work authorized nonimmigrant or an alien lawfully admitted for permanent residence who qualified for such benefits, and for whom the U.S. under a reciprocal treaty agreement is required to pay benefits.

*Section 2212. Limited eligibility of qualified aliens for medical assistance*

Section 2212 provides that a State is authorized to determine the eligibility of an alien who is a qualified alien for the program of medical assistance under Title XV or Title XIX of the Social Security Act. Time-limited exceptions are provided as follows: (1) an alien admitted as a refugee until 5 years after the date of the alien's entry; (2) an alien granted asylum until 5 years after the date of grant of asylum; and (3) an alien whose deportation is being withheld until 5 years after such withholding.

This section also provides that certain qualified aliens shall be eligible for benefits. Included are certain permanent resident aliens such as an alien who is lawfully admitted for permanent residence, who has worked 40 qualifying quarters of coverage (as defined under Title II of the Social Security Act or as defined in this sec-

tion), and who did not receive any Federal means-tested public benefit during any such quarter.

“Qualifying quarters of coverage” include: (1) all qualifying quarters of coverage worked by the parent of an alien (while the alien was under age 18) if the parent did not receive any Federal means-tested public benefit; and (2) all qualifying quarters worked by the spouse of an alien during marriage if the spouse did not receive any Federal means-tested public benefit, and the alien is still married to the spouse or the spouse is deceased. Also eligible is an alien who is lawfully residing in a State and is a veteran, on active duty in the Armed Forces, or is the spouse or unmarried dependent child of the veteran or active duty personnel.

Further, this section provides that an alien who is lawfully residing in the U.S. and is receiving benefits on the date of enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

*Section 2213. Five-year limited eligibility of qualified alien for Federal means-tested public benefit*

Section 2213 provides that an alien who enters the U.S. as a qualified alien on or after the date of enactment of this Act is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien’s entry into the U.S. An exception is provided for the following: (1) an alien who is admitted as a refugee; (2) an alien who is granted asylum; (3) an alien whose deportation is being withheld; and (4) an alien who is lawfully residing in the U.S. and is a veteran, on active duty, or the spouse or dependent child of such an individual.

A Federal means-tested public benefit is defined as a Federal public benefit (defined above) in which the eligibility for benefits or the amount of benefits are determined on the basis of income, resources, or financial need. Such term does not include: (1) emergency medical assistance under Title XV or XIX of the Social Security Act; (2) public assistance for immunizations; or (3) public health assistance for testing or treatment of a serious communicable disease to prevent the spread of the disease.

*Section 2214. Notification*

Section 2214 requires each Federal agency that administers any of the programs under sections 2211, 2212, or 2213 to post information and provide general notification to the public and to program recipients of the changes regarding eligibility.

## Subpart B—General Provisions

*Section 2221. Definitions*

Section 2221 provides that the terms in this part have the meaning given such terms in section 101(a) of the Immigration and Nationality Act, unless otherwise provided.

This section defines a qualified alien as an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is: (1) an alien lawfully admitted for permanent residence; (2) an alien who is granted asylum; (3) a refugee; (4) an alien who is paroled into the U.S. for a period of at least 1 year;

(5) an alien whose deportation is being withheld; or (6) an alien who is granted conditional entry.

*Section 2222. Verification of eligibility for Federal public benefits*

Section 2222 provides that not later than 18 months after enactment, the Attorney General, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal public benefit is a qualified alien and is eligible to receive such benefit. Not later than 24 months after the date the regulations are adopted, a State that administers such a program shall have in effect a verification system that complies with the regulations. The section also authorizes such sums as necessary to carry out this section.

PART 3—ENERGY ASSISTANCE

*Section 2131. Energy assistance*

Section 2131 makes two changes to section 2605(f) of the Low Income Home Energy Assistance Act of 1981. First, the amendment strikes paragraph (2) from section 2605(f). Second, the amendment makes a conforming change to paragraph (1), to reflect the deletion of paragraph (2).

The administration, in its recommendations on welfare, also proposed deleting paragraph (2) of section 2605(f) and the conforming change to paragraph (1). In addition, the administration proposed striking the reference to “food stamps” in paragraph (1).

Since both paragraphs (1) and (2) provide that indirect LIHEAP benefits are excluded from the definition of income and resources under other Federal and State laws, deletion of paragraph (2) will not change the treatment of indirect LIHEAP benefits for purposes of the Food Stamp Act.

Deletion of paragraph (2) would have an impact on determination of the excess shelter expense deduction under section 5(e) of the Food Stamp Act of 1977 only if LIHEAP recipients receive prorated LIHEAP benefits in excess of home energy costs. According to the Energy Assistance Division at the U.S. Department of Health and Human Services, no LIHEAP recipients receive benefits in excess of home energy costs, so as a practical matter deletion of paragraph (2) would have no impact on LIHEAP benefits.

CHANGES IN EXISTING LAW MADE BY TITLE II OF THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**SOCIAL SECURITY ACT**

\* \* \* \* \*

## TITLE XI—GENERAL PROVISIONS AND PEER REVIEW

\* \* \* \* \*

## PART A—GENERAL PROVISIONS

\* \* \* \* \*

EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM  
PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS

## SEC. 1128. (a) \* \* \*

\* \* \* \* \*

(h) DEFINITION OF STATE HEALTH CARE PROGRAM.—For purposes of this section and sections 1128A and 1128B, the term “State health care program” means—

(1) a State plan approved under title XIX or a State plan under title XV,

\* \* \* \* \*

TITLE XV—PROGRAM OF MEDICAL ASSISTANCE FOR LOW-  
INCOME INDIVIDUALS AND FAMILIES

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*Sec. 1572. Treatment of territories.*

*Sec. 1573. Description of treatment of Indian Health Service facilities.*

*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 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 and resource standards (as defined in paragraph (6)(C)) in the State, determined using the methodology for determining eligibility for aid under the State plan under part A or part E of title IV (as in effect as of May 1, 1996).*

(2) *GUARANTEED BENEFITS PACKAGE.*—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:

(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 (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).*

(H) *Prepregnancy family planning services and supplies (as specified by the State).*

(I) *Prenatal care.*

(J) *Physician assistance services, pediatric and family nurse practitioner services and nurse midwife services.*

(K) *EPSDT services (as defined in section 1571(e)) for individuals who are under the age of 21.*

*A State may establish criteria, including utilization review, and cost effectiveness of alternative covered services, for purposes of specifying the amount, duration, and scope of benefits provided under the State plan.*



(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 and resource standards are above the national average of the current AFDC income and resource 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 and resource standards for the current AFDC income and resource 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 “individuals and members of families who meet current AFDC income and resource 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 AND RESOURCE STANDARDS DEFINED.*—In this subsection, the term “current AFDC income and resource standards” means, with respect to a State, the income and resource 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 FAMILIES BECOMING INELIGIBLE FOR FAMILY ASSISTANCE DUE TO INCREASED EARNINGS FROM EMPLOYMENT OR COLLECTION OF CHILD SUPPORT.*—A State plan shall provide that if any family becomes ineligible to receive assistance under the State program funded under part A of title IV as a result of increased earnings from employment or as a result of the collection or increased collection of child or spousal support, or a combination thereof, having 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 plan during the immediately succeeding 12-month period for so long as family income is less than the poverty line, and that the family will be appropriately notified of such eligibility.

(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) *ELIGIBILITY GUIDELINES FOR THE NON-GUARANTEED, NON-UMBRELLA POPULATION.*—The general eligibility guidelines of the plan for eligible low-income individuals who are not covered under subsection (a) or (b) of section 1501 or under subsection (a) of this section.

(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.

(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)  $1\frac{1}{4}$  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.

(2) *CONDITIONS FOR GUARANTEES AND RELATION OF GUARANTEES TO FINANCING.*—The guarantees of States required under subsection (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 individ-

ual 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.

(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) *TRANSITIONAL PAYMENT FOR FEDERALLY-QUALIFIED HEALTH CENTER SERVICES AND RURAL HEALTH CLINIC SERVICES.*—Each State plan shall provide that, for Federally-qualified health center services and rural health clinic services (as defined in section 1571(f)) furnished under the plan during the first 8 calendar quarters in which the plan is in effect and for which payment is made under the plan, payment shall be made for such services at a rate based on 100 percent of costs which are reasonable and related to the cost of furnishing such services or based on such other tests of reasonableness, as the Secretary prescribes in regulations under section 1833(a)(3), or, in the case of services to which those regulations do not apply, on the same methodology used under section 1833(a)(3).

(e) *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.

(f) SOLVENCY STANDARDS FOR CAPITATED HEALTH CARE ORGANIZATIONS.—

(1) IN GENERAL.—A State may not contract with a capitated health care organization, as defined in section 1504(c)(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, 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 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 organization through membership, board representation, or an ownership interest equal to or greater than 50.1 percent.

(g) FOR SERVICES PROVIDED AT FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.—

(1) IN GENERAL.—Subject to paragraph (2), 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 1861(aa)(2)) and Federally-qualified health centers (as defined in section 1861(aa)(4)), for eligible



low-income individuals for a fiscal year is not less than 85 percent of the average annual expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 which were attributable to expenditures for medical assistance for rural health clinic services and Federally-qualified health center services (as defined in section 1905(l)).

(2) **ALTERNATIVE MINIMUM SET-ASIDES.**—

(A) **IN GENERAL.**—Beginning with fiscal year 2001, a State may provide in its State plan (through an amendment to the plan) for a lower percentage of expenditures than the minimum percentages specified in paragraph (1) if the State determines to the satisfaction of the Secretary that—

(i) the health care needs of the low-income populations described in such paragraph who are eligible for medical assistance under the plan during the previous fiscal year can be reasonably met without the expenditure of the percentage otherwise required to be expended;

(ii) the performance goals established under section 1521 relating to such population can reasonably be met with the expenditure of such lower percentage of funds; and

(iii) the health care needs of eligible low-income individuals residing in medically underserved rural areas can reasonably be met without the level of expenditure for such services otherwise required and the performance goals established under section 1521 relating to such individuals can reasonably be met with such lower level of expenditures.

(B) **PERIOD OF APPLICATION.**—The determination under subparagraph (A) shall be made for such period as a State may request, but may not be made for a period of more than 3 consecutive Federal fiscal years (beginning with the first fiscal year for which the lower percentage is sought). A new determination must be made under such subparagraph for any subsequent period.

**SEC. 1503. LIMITATIONS ON PREMIUMS AND COST-SHARING.**

(a) **LIMITATION ON PREMIUMS.**—

(1) **NONE FOR GUARANTEED POPULATION.**—The State plan shall not impose any enrollment fee, premium, or similar charge for eligible individuals described in subsection (a) or (b) of section 1501 or section 1502(a).

(2) **INCOME-RELATED FOR OTHER POPULATIONS.**—The State plan may impose an enrollment fee, premium, or similar charge for eligible individuals not described in paragraph (1) if it is related to the individual's income (and does not exceed 2 percent of the individual's gross income).

(b) **LIMITATION ON COST-SHARING.**—Subject to subsection (c)—

(1) **GUARANTEED POPULATIONS.**—With respect to individuals covered under subsection (a) or (b) of section 1501 or section 1502, the State may not impose any cost-sharing with respect to items and services unless the amount is nominal in amount. For purposes of this paragraph, an amount is nominal

if it does not exceed 6 percent of the amount otherwise payable, or, if greater, 50 cents.

(2) *OTHER POPULATIONS.*—With respect to individuals not described in paragraph (1), the State may not impose any cost-sharing with respect to items and services unless such cost sharing is pursuant to a public cost-sharing schedule and such cost-sharing is not in excess of the average, nominal cost-sharing imposed in the State for health plans offered by health maintenance organizations (and similar organizations) for the same or similar items and services, as determined by the State insurance commissioner.

(c) *CERTAIN COST-SHARING PERMITTED.*—

(1) *IN GENERAL.*—Subject to paragraph (2), a State may—

(A) impose additional cost-sharing to discourage the inappropriate use of emergency medical services delivered through a hospital emergency room, a medical transportation provider, or otherwise;

(B) impose additional cost-sharing differentially in order to encourage the use of primary and preventive care and discourage unnecessary or less economical care; and

(C) from imposing additional cost-sharing based on the failure to participate in employment training programs, drug or alcohol abuse treatment, counseling programs, or other programs promoting personal responsibility.

(2) *LIMITATION.*—The additional cost-sharing imposed under paragraph (1) may not result—

(A) in the case of an individual described in subsection (b)(1), in aggregate cost-sharing that exceeds the maximum amount of cost-sharing that may be imposed under subsection (b)(2) (determined without regard to this subsection); or

(B) in the case of an individual described in subsection (b)(2), in aggregate cost-sharing that exceeds twice the maximum amount of cost-sharing that may be imposed under such subsection (determined without regard to this subsection).

(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) *COST-SHARING DEFINED.*—In this section, the term “cost-sharing” includes copayments, deductibles, coinsurance, and other charges for the provision of health care services.

**SEC. 1504. DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES.**

(a) *IN GENERAL.*—If a State contracts (or intends to contract) with a capitated health care organization (as defined in subsection (c)(1)) under which the State makes a capitation payment (as defined in subsection (c)(2)) to the organization for providing or arranging for the provision of medical assistance under the 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:

(1) *USE OF ACTUARIAL SCIENCE.*—The extent and manner in which the State uses actuarial science—

(A) to analyze and project health care expenditures and utilization for individuals enrolled (or to be enrolled) in such an organization under the State plan, and

(B) to develop capitation payment rates, including a brief description of the general methodologies used by actuaries.

(2) *QUALIFICATIONS OF ORGANIZATIONS.*—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the State plan.

(3) *DISSEMINATION PROCESS.*—The process used by the State under subsection (b) and otherwise to disseminate, before entering into contracts with capitated health care organizations, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

(b) *PUBLIC NOTICE AND COMMENT.*—Under the State plan the State shall provide a process for providing, before the beginning of each contract year—

(1) public notice of—

(A) the amounts of the capitation payments (if any) made under the plan for the contract year preceding the public notice, and

(B)(i) the information described under subsection (a)(1) with respect to capitation payments for the contract year involved, or (ii) amounts of the capitation payments the State expects to make for the contract year involved, unless such information is designated as proprietary and not subject to public disclosure under State law, and

(2) an opportunity for receiving public comment on the amounts and information for which notice is provided under paragraph (1).

(c) *DEFINITIONS.*—In this title:

(1) *CAPITATED HEALTH CARE ORGANIZATION.*—The term “capitated health care organization” means a health maintenance organization or any other entity (including a health insuring organization, managed care organization, prepaid health plan, integrated service network, or similar entity) which under State law is permitted to accept capitation payments for providing (or arranging for the provision of) a group of items and services including at least inpatient hospital services and physicians’ services.

(2) *CAPITATION PAYMENT.*—The term “capitation payment” means, with respect to payment, payment on a prepaid capitation basis or any other risk basis to an entity for the entity’s provision (or arranging for the provision) of a group of items and services, including at least inpatient hospital services and physicians’ services.

**SEC. 1505. PREVENTING SPOUSAL IMPOVERISHMENT.**

(a) *SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.*—

(1) *SUPERSEDES OTHER PROVISIONS.*—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title which is inconsistent with them.

(2) *DOES NOT AFFECT CERTAIN DETERMINATIONS.*—Except as this section specifically provides, this section does not apply to—

(A) the determination of what constitutes income or resources, or

(B) the methodology and standards for determining and evaluating income and resources.

(3) *NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.*—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

(b) *RULES FOR TREATMENT OF INCOME.*—

(1) *SEPARATE TREATMENT OF INCOME.*—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

(2) *ATTRIBUTION OF INCOME.*—In determining the income of an institutionalized spouse or community spouse for purposes of the post-eligibility income determination described in subsection (d), except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

(A) *NON-TRUST PROPERTY.*—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse,

(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse,  $\frac{1}{2}$  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,  $\frac{1}{2}$  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,  $\frac{1}{2}$  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,  $\frac{1}{2}$  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),  $\frac{1}{2}$  of the income shall be considered to be available to the institutionalized spouse and  $\frac{1}{2}$  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  $\frac{1}{2}$  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  $\frac{1}{3}$  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  $\frac{1}{12}$  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 allowance 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 the plan; and*

(B) *who 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 AND INSTITUTIONAL 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, other long-term care services, and hospital and other institutional 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, 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 (consistent with the requirements of section 1502(d));

(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 eligibility for benefits or 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 and 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).

(iv) *SUPPLEMENTAL ALLOTMENT FOR INDIAN HEALTH SERVICES.*—The amount of any supplemental allotment for that State for the fiscal year under subsection (h).

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 clauses (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 AND INDIAN SUPPLEMENTAL ALLOTMENTS.*—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) or (h) for the fiscal year is less than the amount of any supple-

mental 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 de-



creased, 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.—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:

<b>State or District:</b>	<b>Outlay allotment (in dollars):</b>
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 (be-

ginning with fiscal year 1997) for the percentage increase referred to in section 1108(c)(1)(B) (as so in effect).

(B) *DISREGARD OF ROUNDING REQUIREMENTS.*—For purposes of subparagraph (A), the rounding requirements under section 1108(c) shall not apply.

(C) *LIMITATION ON TOTAL AMOUNT FOR FISCAL YEAR 1996.*—Notwithstanding the provisions of subparagraph (A), the total amount of the 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 subparagraph (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 medic-aid 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 number of undocumented alien residents of all the States.

(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 \$500,000,000,*

*(ii) for fiscal year 1999 is \$600,000,000,*

*(iii) for fiscal year 2000 is \$700,000,000,*

*(iv) for fiscal year 2001 is \$800,000,000, and*

*(v) for fiscal year 2002 is \$900,000,000.*

(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 increase 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.

(h) *ALLOTMENT FOR MEDICAL ASSISTANCE FOR SERVICES PROVIDED IN INDIAN HEALTH SERVICE AND RELATED FACILITIES*.—

(1) *IN GENERAL*.—For purposes of this section for each of fiscal years 1998 through 2002 in the case of a subsection (h) 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 described in section 1512(f)(3) (relating to services provided by the Indian Health Service and related facilities).

(2) *SUPPLEMENTAL OUTLAY ALLOTMENT*.—

(A) *IN GENERAL*.—For purposes of paragraph (1), the amount under this paragraph for a subsection (h) supplemental allotment eligible State for a fiscal year is equal to the subsection (h) supplemental allotment ratio (as defined in subparagraph (C)) multiplied by the subsection (h) supplemental pool amount (specified in subparagraph (D)) for the fiscal year.

(B) *SUBSECTION (h) SUPPLEMENTAL ALLOTMENT ELIGIBLE STATE*.—In this subsection, the term “subsection (h) supplemental allotment eligible State” means a State that has one or more facilities described in section 1512(f)(3)(A).

(C) *SUBSECTION (h) SUPPLEMENTAL ALLOTMENT RATIO.*—In this paragraph, the “subsection (h) supplemental allotment ratio” for a State is the ratio of—

- (i) the number of Indians residing in the State, to
- (ii) the sum of such numbers for all subsection (h) supplemental allotment eligible States.

(D) *SUBSECTION (h) SUPPLEMENTAL POOL AMOUNT.*—In this paragraph, the “subsection (h) supplemental pool amount”, for—

- (i) fiscal year 1998 is \$89,090,082,
- (ii) fiscal year 1999 is \$94,238,788,
- (iii) fiscal year 2000 is \$99,685,050,
- (iv) fiscal year 2001 is \$105,446,063, and
- (v) fiscal year 2002 is \$111,540,017.

(E) *DETERMINATION OF NUMBER.*—The number of Indians residing in a State under this paragraph for a fiscal year shall be based on the most recent available estimate of the Secretary of the Interior.

(3) *INDIAN DEFINED.*—The term “Indian” has the meaning given such term in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

#### **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 review, medical and peer review, anti-fraud activities, independent evaluations, coordination of benefits, and meeting reporting requirements under this title, plus

(C) an amount equal to 50 percent of so much of the remainder of the amounts expended during such quarter as are expended by the State in the administration of the State 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 40 percent or greater than 83 percent.

(3) *PROMULGATION.*—The new Federal medical assistance percentage for any State shall be promulgated in a timely manner consistent with the promulgation of the old Federal medical assistance percentage under section 1101(a)(8)(B).

(f) *SPECIAL RULES.*—For purposes of this title:

(1) *COMMONWEALTHS AND TERRITORIES.*—In the case of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, the old and new Federal medical assistance percentages are 50 percent.

(2) *ALASKA.*—In the case of Alaska, the old Federal medical assistance percentage is that percentage which bears the same ratio to 45 percent as the square of the adjusted per capita income of such State bears to the square of the per capita income of the continental United States. For purposes of the preceding sentence, the adjusted per capita income for Alaska shall be determined by dividing the State's most recent 3-year average per capita by the health care cost index for such State (as determined under section 1511(d)(3)).

(3) *INDIAN HEALTH SERVICE AND RELATED FACILITIES.*—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—

(A) an Indian Health Service facility;

(B) 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

(C) 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.

(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 subsection (a), 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:

<b>Fiscal year:</b>	<b>Applicable Percentage:</b>
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 may 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.*—

(1) *IN GENERAL.*—Subject to paragraph (2), 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).

(2) *WAIVER AUTHORITY.*—Beginning 2 years after the date of the enactment of this title, the Secretary, taking into account the report submitted under section 1513(j)(2), may waive, upon the application of a State, paragraph (1) as it applies in that State if the Secretary determines that the waiver would not financially undermine the program under this title and would not otherwise be abusive.

**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.*—Paragraph (1) 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) subject to paragraph (4), 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) of paragraph (1), 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) *STUDY AND REPORT ON STATE FUNDING.*—

(1) *STUDY.*—The Comptroller General shall provide for a study of the methods by which States provide for financing their share of expenditures under this title. Such study shall in-

clude an examination of the use of provider taxes and donations, as well as intergovernmental transfers.

(2) *REPORT.*—Not later than 2 years after the date of the enactment of this title, the Comptroller General shall submit to Congress a report on such study. The report shall include such recommendations as the Comptroller General deems appropriate.

#### **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 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 relative adequacy of the health care infrastructure in different regions of the State.

(d) *PERFORMANCE MEASURES.*—To the extent practicable—

(1) one or more performance goals shall be established by the State for each strategic objective identified in the 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 requirement of section 1502(c) 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(c)(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.

**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.
- (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 gen-

erally 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 this part, 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.*

(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.*

**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, 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

(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 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.

(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.

(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. 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 cor-

rected in the plan, will not violate a requirement of subsection (a) or (b) of section 1501. 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 or substantially violate another requirement of this title. In the case of a failure to meet a set-aside requirement under section 1502(c), 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.

(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 non-custodial parent, and*

*(iii) to make payment on claims submitted in accordance with clause (ii) directly to such custodial parent, the provider, or the State agency.*

*(F) A law that permits the State agency under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—*

*(i) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,*

*(ii) has received payment from a third party for the costs of such services to such child, but*

*(iii) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,*

*to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.*

(2) *DEFINITION.—For purposes of this subsection, the term “insurer” includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.*

(g) *ESTATE RECOVERIES AND LIENS PERMITTED.—A State may take such actions as it considers appropriate to adjust or recover from the individual or the individual’s estate any amounts paid as medical assistance to or on behalf of the individual under the State plan, including through the imposition of liens against the property or estate of the individual to the extent consistent with section 1506.*

**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 man-

ner 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 renewing a waiver, a State may require the facility to use other qualified, licensed personnel.

(iii) ASSUMPTION OF WAIVER AUTHORITY BY SECRETARY.—If the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements, the Secretary shall assume and exercise the authority of the State to grant waivers.

(5) REQUIRED TRAINING OF NURSE AIDES.—

(A) IN GENERAL.—(i) Except as provided in clause (ii), a nursing facility must not use on a full-time basis any individual as a nurse aide in the facility, for more than 4 months unless the individual—

(I) has completed a training and competency evaluation program, or a competency evaluation program, approved by the State under subsection (e)(1)(A), and

(II) is competent to provide nursing or nursing-related services.

(ii) A nursing facility must not use on a temporary, per diem, leased, or on any other basis other than as a permanent employee any individual as a nurse aide in the facility, unless the individual meets the requirements described in clause (i).

(B) OFFERING COMPETENCY EVALUATION PROGRAMS FOR CURRENT EMPLOYEES.—A nursing facility must provide, for individuals used as a nurse aide by the facility, for a competency evaluation program approved by the State under subsection (e)(1) and such preparation as may be necessary for the individual to complete such a program.

(C) COMPETENCY.—The nursing facility must not permit an individual, other than in a training and competency evaluation program approved by the State, to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competency and must not use such an individual as a nurse aide unless the facility has inquired of any State registry established under subsection (e)(2)(A) that the facility believes will include information concerning the individual.

(D) RE-TRAINING REQUIRED.—For purposes of subparagraph (A), if, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual performed nursing or nursing-related services for monetary compensation, such

*individual shall complete a new training and competency evaluation program, or a new competency evaluation program.*

(E) *REGULAR IN-SERVICE EDUCATION.*—*The nursing facility must provide such regular performance review and regular in-service education as assures that individuals used as nurse aides are competent to perform services as nurse aides, including training for individuals providing nursing and nursing-related services to residents with cognitive impairments.*

(F) *NURSE AIDE DEFINED.*—*In this paragraph, the term “nurse aide” means any individual providing nursing or nursing-related services to residents in a nursing facility, but does not include an individual—*

*(i) who is a licensed health professional (as defined in subparagraph (G)) or a registered 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 convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed—

(I) to ensure the physical safety of the resident or other residents, and

(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained).

(iii) *PRIVACY.*—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.

(iv) *CONFIDENTIALITY.*—The right to confidentiality of personal and clinical records and to access to current clinical records of the resident upon request by the resident or the resident's legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.

(v) *ACCOMMODATION OF NEEDS.*—The right—

(I) to reside and receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

(II) to receive notice before the room or roommate of the resident in the facility is changed.

(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 Sec-

retary 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 nursing 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 certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

(C) *RIGHTS OF INCOMPETENT RESIDENTS.*—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

(D) *USE OF PSYCHOPHARMACOLOGIC DRUGS.*—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) 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 written 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 prohibit-

ing, 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 administrator standards developed under subsection (f)(4) respecting the qualification of administrators of nursing facilities. Any such standards promulgated shall apply to administrators of hospital-based facilities as well as administrators of freestanding facilities.

(5) *SPECIFICATION OF RESIDENT ASSESSMENT INSTRUMENT.*—The State shall specify the instrument to be used by nursing facilities in the State in complying with the requirement of subsection (b)(3)(A)(iii). 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 requirement relating to the areas to be covered in such a program, including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents' rights, and procedures for determination of competency;

(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 prorata 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) of this section; or

(c) has been assessed a civil money penalty described in section 1819(h)(2)(B)(ii) or subsection (h)(2)(A)(ii) of this section of not less than \$5,000, or has been subject to a remedy described in subsection (h)(1)(B)(i) of this section, clauses (i), (iii), or (iv) of subsection (h)(2)(A) of this section, clauses (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) assures, 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 re-

view 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-serv-

ice 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 non-compliance 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 carry-*



ing 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).*

*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.*

**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.*—Each State plan shall provide a program to assure the quality of services provided under the plan, including such services provided to individuals with chronic mental or physical illness.

#### *PART E—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 including residential or other 24-hour therapeutically planned structured services.
- (13) Outpatient mental health services, including services furnished in a State-operated mental hospital and including community-based services.
- (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 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)).
  - (33) Rural health clinic services (as defined in subsection (f)(1)).
  - (34) Physician assistant services.
  - (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 incurred 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 Commu-

nity 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 the following items and services:

(1) *Screening services*—

(A) *which are provided*—

(i) at intervals which meet reasonable standards of medical and dental practice, as determined by the State after consultation with recognized medical and dental organizations involved in child health care and, with respect to immunizations under section 1501(a)(2)(G) in accordance with the schedule referred to in such section for pediatric vaccines, and

(ii) at such other intervals, indicated as medically necessary, to determine the existence of certain physical or mental illnesses or conditions; and

(B) *which shall at a minimum include*—

(i) a comprehensive health and developmental history (including assessment of both physical and mental health development),

(ii) a comprehensive unclothed physical exam,

(iii) appropriate immunizations (according to the schedule referred to in section 1501(a)(2)(G) for pediatric vaccines) according to age and health history,

(iv) laboratory tests (including lead blood level assessment appropriate for age and risk factors), and

(v) health education (including anticipatory guidance).

(2) *Vision services*—

(A) *which are provided*—

(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

(B) *which shall at a minimum include diagnosis and treatment for defects in vision, including eyeglasses.*

(3) *Dental services*—

(A) *which are provided*—

(i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care, and

(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

(B) *which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.*



(4) *Hearing services—*(A) *which are provided—*

(i) *at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and*

(ii) *at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and*

(B) *which shall at a minimum include diagnosis and treatment for defects in hearing, including hearing aids.*

(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.—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 an 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.*

(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.**

In the case of a State in which one or more facilities of the Indian Health Service is located or in which a facility of an Indian health program described in section 1512(f)(3) 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, 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 assist-

ance 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 manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992.

(B) *COVERED ENTITY DEFINED.*—In this subsection, the term “covered entity” means an entity described in subsection (a)(4) of section 340B of the Public Health Service Act if the entity furnishes the drugs to patients at a cost no greater than acquisition cost plus such dispensing fee as may be allowable as determined by the Office of Drug Pricing in the Public Health Service.

(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 requirement, volume discounts, and rebates (other than rebates under this section),

(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package,

(III) shall not take into account prices that are merely nominal in amount, and

(IV) shall exclude rebates paid under this section or any other rebates paid to a State participating in the 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 excluded 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)) pursuant to a prior authorization program that is consistent with paragraph (5).*

(E) *The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.*

*A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.*

(5) **REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.**—*The 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 online, 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(c)(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 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 application approved by the Food and Drug Administration.

(iii) *NONINNOVATOR MULTIPLE SOURCE DRUG.*—The term “noninnovator multiple source drug” means a

multiple source drug that is not an innovator multiple source drug.

(iv) *SINGLE SOURCE DRUG.*—The term “single source drug” means a covered outpatient drug (other than a drug described in subparagraph (C) or (D) of paragraph (2)) 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.

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**[Title XIX is repealed effective on October 1, 1997. Section 1928 of this title is repealed effective on the date of enactment.]**

## **[TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS**

### **[APPROPRIATION**

**[SEC. 1901.** For the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish (1) medical assistance on behalf of families with dependent children and of aged, blind, or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services, and (2) rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care, there is hereby authorized to be appropriated for each fiscal year



a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for medical assistance.

**[STATE PLANS FOR MEDICAL ASSISTANCE]**

**[SEC. 1902. (a) A State plan for medical assistance must—**

**[(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;**

**[(2) provide for financial participation by the State equal to not less than 40 per centum of the non-Federal share of the expenditures under the plan with respect to which payments under section 1903 are authorized by this title; and, effective July 1, 1969, provide for financial participation by the State equal to all of such non-Federal share or provide for distribution of funds from Federal or State sources, for carrying out the State plan, on an equalization or other basis which will assure that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan;**

**[(3) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for medical assistance under the plan is denied or is not acted upon with reasonable promptness;**

**[(4) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods, and including provision for utilization of professional medical personnel in the administration and, where administered locally, supervision of administration of the plan) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency, and (C) 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;**

[(5) either provide for the establishment or designation of a single State agency to administer or to supervise the administration of the plan; or provide for the establishment or designation of a single State agency to administer or to supervise the administration of the plan, except that the determination of eligibility for medical assistance under the plan shall be made by the State or local agency administering the State plan approved under title I or XVI (insofar as it relates to the aged) if the State is eligible to participate in the State plan program established under title XVI, or by the agency or agencies administering the supplemental security income program established under title XVI or the State plan approved under part A of title IV if the State is not eligible to participate in the State plan program established under title XVI;

[(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

[(7) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan;

[(8) provide that all individuals wishing to make application for medical assistance under the plan shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible individuals;

[(9) provide—

[(A) that the State health agency, or other appropriate State medical agency (whichever is utilized by the Secretary for the purpose specified in the first sentence of section 1864(a)), shall be responsible for establishing and maintaining health standards for private or public institutions in which recipients of medical assistance under the plan may receive care or services,

[(B) for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards, other than those relating to health, for such institutions, and

[(C) that any laboratory services paid for under such plan must be provided by a laboratory which meets the applicable requirements of section 1861(e)(9) or paragraphs (15) and (16) of section 1861(s), or, in the case of a laboratory which is in a rural health clinic, of section 1861(aa)(2)(G);

[(10) provide—

[(A) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5), (17) and (21) of section 1905(a), to—

[(i) all individuals—

[(I) who are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including individuals eligible under this title by reason of section 402(a)(37), 406(h), or 473(b), or consid-

ered by the State to be receiving such aid as authorized under section 482(e)(6)),

[(II) with respect to whom supplemental security income benefits are being paid under title XVI or who are qualified severely impaired individuals (as defined in section 1905(q)),

[(III) who are qualified pregnant women or children as defined in section 1905(n),

[(IV) who are described in subparagraph (A) or (B) of subsection (1)(1) and whose family income does not exceed the minimum income level the State is required to establish under subsection (1)(2)(A) for such a family;

[(V) who are qualified family members as defined in section 1905(m)(1),

[(VI) who are described in subparagraph (C) of subsection (1)(1) and whose family income does not exceed the income level the State is required to establish under subsection (1)(2)(B) for such a family, or

[(VII) who are described in subparagraph (D) of subsection (1)(1) and whose family income does not exceed the income level the State is required to establish under subsection (1)(2)(C) for such a family;

[(ii) at the option of the State, to any group or groups of individuals described in section 1905(a) (or, in the case of individuals described in section 1905(a)(i), to any reasonable categories of such individuals) who are not individuals described in clause (i) of this subparagraph but—

[(I) who meet the income and resources requirements of the appropriate State plan described in clause (i) or the supplemental security income program (as the case may be),

[(II) who would meet the income and resources requirements of the appropriate State plan described in clause (i) if their work-related child care costs were paid from their earnings rather than by a State agency as a service expenditure,

[(III) who would be eligible to receive aid under the appropriate State plan described in clause (i) if coverage under such plan was as broad as allowed under Federal law,

[(IV) with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, aid or assistance under the appropriate State plan described in clause (i), supplemental security income benefits under title XVI, or a State supplementary payment;

[(V) who are in a medical institution for a period of not less than 30 consecutive days (with eli-

gibility by reason of this subclause beginning on the first day of such period), who meet the resource requirements of the appropriate State plan described in clause (i) or the supplemental security income program, and whose income does not exceed a separate income standard established by the State which is consistent with the limit established under section 1903(f)(4)(C),

[(VI) who would be eligible under the State plan under this title if they were in a medical institution, with respect to whom there has been a determination that but for the provision of home or community-based services described in subsection (c), (d), or (e) of section 1915 they 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 State plan, and who will receive home or community-based services pursuant to a waiver granted by the Secretary under subsection (c), (d), or (e) of section 1915,

[(VII) who would be eligible under the State plan under this title if they were in a medical institution, who are terminally ill, and who will receive hospice care pursuant to a voluntary election described in section 1905(o);

[(VIII) who is a child described in section 1905(a)(i)—

[(aa) for whom there is in effect an adoption assistance agreement (other than an agreement under part E of title IV) between the State and an adoptive parent or parents,

[(bb) who the State agency responsible for adoption assistance has determined cannot be placed with adoptive parents without medical assistance because such child has special needs for medical or rehabilitative care, and

[(cc) who was eligible for medical assistance under the State plan prior to the adoption assistance agreement being entered into, or who would have been eligible for medical assistance at such time if the eligibility standards and methodologies of the State's foster care program under part E of title IV were applied rather than the eligibility standards and methodologies of the State's aid to families with dependent children program under part A of title IV;

[(IX) who are described in subsection (l)(1) and are not described in clause (i)(IV), clause (i)(VI), or clause (i)(VII);

[(X) who are described in subsection (m)(1);

[(XI) who receive only an optional State supplementary payment based on need and paid on a

regular basis, equal to the difference between the individual's countable income and the income standard used to determine eligibility for such supplementary payment (with countable income being the income remaining after deductions as established by the State pursuant to standards that may be more restrictive than the standards for supplementary security income benefits under title XVI), which are available to all individuals in the State (but which may be based on different income standards by political subdivision according to cost of living differences), and which are paid by a State that does not have an agreement with the Commissioner of Social Security under section 1616 or 1634; or

[(XII) who are described in subsection (z)(1) (relating to certain TB-infected individuals);

[(B) that the medical assistance made available to any individual described in subparagraph (A)—

[(i) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual, and

[(ii) shall not be less in amount, duration, or scope than the medical assistance made available to individuals not described in subparagraph (A);

[(C) that if medical assistance is included for any group of individuals described in section 1905(a) who are not described in subparagraph (A) or (E), then—

[(i) the plan must include a description of (I) the criteria for determining eligibility of individuals in the group for such medical assistance, (II) the amount, duration, and scope of medical assistance made available to individuals in the group, and (III) the single standard to be employed in determining income and resource eligibility for all such groups, and the methodology to be employed in determining such eligibility, which shall be no more restrictive than the methodology which would be employed under the supplemental security income program in the case of groups consisting of aged, blind, or disabled individuals in a State in which such program is in effect, and which shall be no more restrictive than the methodology which would be employed under the appropriate State plan (described in subparagraph (A)(i)) to which such group is most closely categorically related in the case of other groups;

[(ii) the plan must make available medical assistance—

[(I) to individuals under the age of 18 who (but for income and resources) would be eligible for medical assistance as an individual described in subparagraph (A)(i), and

[(II) to pregnant women, during the course of their pregnancy, who (but for income and re-

sources) would be eligible for medical assistance as an individual described in subparagraph (A);

[(iii) such medical assistance must include (I) with respect to children under 18 and individuals entitled to institutional services, ambulatory services, and (II) with respect to pregnant women, prenatal care and delivery services; and

[(iv) if such medical assistance includes services in institutions for mental diseases or in an intermediate care facility for the mentally retarded (or both) for any such group, it also must include for all groups covered at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a) or the care and services listed in any 7 of the paragraphs numbered (1) through (24) of such section;

[(D) for the inclusion of home health services for any individual who, under the State plan, is entitled to nursing facility services;

[(E)(i) for making medical assistance available for medicare cost-sharing (as defined in section 1905(p)(3)) for qualified medicare beneficiaries described in section 1905(p)(1);

[(ii) for making medical assistance available for payment of medicare cost-sharing described in section 1905(p)(3)(A)(i) for qualified disabled and working individuals described in section 1905(s); and

[(iii) for making medical assistance available for medicare cost sharing described in section 1905(p)(3)(A)(ii) subject to section 1905(p)(4), for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) but is less than 110 percent in 1993 and 1994, and 120 percent in 1995 and years thereafter of the official poverty line (referred to in such section) for a family of the size involved; and

[(F) at the option of a State, for making medical assistance available for COBRA premiums (as defined in subsection (u)(2)) for qualified COBRA continuation beneficiaries described in section 1902(u)(1);

except that (I) the making available of the services described in paragraph (4), (14), or (16) of section 1905(a) to individuals meeting the age requirements prescribed therein shall not, by reason of this paragraph (10), require the making available of any such services, or the making available of such services of the same amount, duration, and scope, to individuals of any other ages, (II) the making available of supplementary medical insurance benefits under part B of title XVIII to individuals eligible therefor (either pursuant to an agreement entered into under section 1843 or by reason of the payment of premiums under such title by the State agency on behalf of such individuals), or provision for meeting part or all of the cost of deductibles, cost sharing, or similar charges under part B of title XVIII for individuals eligible for benefits under such part,

shall not, by reason of this paragraph (10), require the making available of any such benefits, or the making available of services of the same amount, duration, and scope, to any other individuals, (III) the making available of medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in clause (A) to any classification of individuals approved by the Secretary with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment shall not, by reason of this paragraph (10), require the making available of any such assistance, or the making available of such assistance of the same amount, duration, and scope, to any other individuals not described in clause (A), (IV) the imposition of a deductible, cost sharing, or similar charge for any item or service furnished to an individual not eligible for the exemption under section 1916(a)(2) or (b)(2) shall not require the imposition of a deductible, cost sharing, or similar charge for the same item or service furnished to an individual who is eligible for such exemption, (V) the making available to pregnant women covered under the plan of services relating to pregnancy (including prenatal, delivery, and postpartum services) or to any other condition which may complicate pregnancy shall not, by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any other individuals, provided such services are made available (in the same amount, duration, and scope) to all pregnant women covered under the State plan, (VI) with respect to the making available of medical assistance for hospice care to terminally ill individuals who have made a voluntary election described in section 1905(o) to receive hospice care instead of medical assistance for certain other services, such assistance may not be made available in an amount, duration, or scope less than that provided under title XVIII, and the making available of such assistance shall not, by reason of this paragraph (10), require the making available of medical assistance for hospice care to other individuals or the making available of medical assistance for services waived by such terminally ill individuals, (VII) the medical assistance made available to an individual described in subsection (l)(1)(A) who is eligible for medical assistance only because of subparagraph (A)(i)(IV) or (A)(ii)(IX) shall be limited to medical assistance for services related to pregnancy (including prenatal, delivery, postpartum, and family planning services) and to other conditions which may complicate pregnancy, (VIII) the medical assistance made available to a qualified medicare beneficiary described in section 1905(p)(1) who is only entitled to medical assistance because the individual is such a beneficiary shall be limited to medical assistance for medicare cost-sharing (described in section 1905(p)(3)), subject to the provisions of subsection (n) and section 1916(b), (IX) the making available of respiratory care services in accordance with subsection (e)(9) shall not, by reason of this paragraph (10), require the making available of such services, or the mak-

ing available of such services of the same amount, duration, and scope, to any individuals not included under subsection (e)(9)(A), provided such services are made available (in the same amount, duration, and scope) to all individuals described in such subsection, (X) if the plan provides for any fixed durational limit on medical assistance for inpatient hospital services (whether or not such a limit varies by medical condition or diagnosis), the plan must establish exceptions to such a limit for medically necessary inpatient hospital services furnished with respect to individuals under one year of age in a hospital defined under the State plan, pursuant to section 1923(a)(1)(A), as a disproportionate share hospital and subparagraph (B) (relating to comparability) shall not be construed as requiring such an exception for other individuals, services, or hospitals, (XI) the making available of medical assistance to cover the costs of premiums, deductibles, coinsurance, and other cost-sharing obligations for certain individuals for private health coverage as described in section 1906 shall not, by reason of paragraph (10), require the making available of any such benefits or the making available of services of the same amount, duration, and scope of such private coverage to any other individuals, (XII) the medical assistance made available to an individual described in subsection (u)(1) who is eligible for medical assistance only because of subparagraph (F) shall be limited to medical assistance for COBRA continuation premiums (as defined in subsection (u)(2)), and (XIII) the medical assistance made available to an individual described in subsection (z)(1) who is eligible for medical assistance only because of subparagraph (A)(ii)(XII) shall be limited to medical assistance for TB-related services (described in subsection (z)(2));

[(11)(A) provide for entering into cooperative arrangements with the State agencies responsible for administering or supervising the administration of health services and vocational rehabilitation services in the State looking toward maximum utilization of such services in the provision of medical assistance under the plan, (B) provide, to the extent prescribed by the Secretary, for entering into agreements, with any agency, institution, or organization receiving payments under (or through an allotment under) title V, (i) providing for utilizing such agency, institution, or organization in furnishing care and services which are available under such title or allotment and which are included in the State plan approved under this section (ii) making such provision as may be appropriate for reimbursing such agency, institution, or organization for the cost of any such care and services furnished any individual for which payment would otherwise be made to the State with respect to the individual under section 1903, and (iii) providing for coordination of information and education on pediatric vaccinations and delivery of immunization services, and (C) provide for coordination of the operations under this title, including the provision of information and education on pediatric vaccinations and the delivery of immunization services, with the State's operations under the special supplemental nutrition program for



women, infants, and children under section 17 of the Child Nutrition Act of 1966;

[(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

[(13) provide—

[(A) for payment (except where the State agency is subject to an order under section 1914) of the hospital services, nursing facility services, and services in an intermediate care facility for the mentally retarded provided under the plan through the use of rates (determined in accordance with methods and standards developed by the State which, in the case of nursing facilities, take into account the costs (including the costs of services required to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident eligible for benefits under this title) of complying with subsections (b) (other than paragraph (3)(F) thereof), (c), and (d) of section 1919 and provide (in the case of a nursing facility with a waiver under section 1919(b)(4)(C)(ii)) for an appropriate reduction to take into account the lower costs (if any) of the facility for nursing care, and which, in the case of hospitals, take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs and provide, in the case of hospital patients receiving services at an inappropriate level of care (under conditions similar to those described in section 1861(v)(1)(G)), for lower reimbursement rates reflecting the level of care actually received (in a manner consistent with section 1861(v)(1)(G)) which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards and to assure that individuals eligible for medical assistance have reasonable access (taking into account geographic location and reasonable travel time) to inpatient hospital services of adequate quality; and such State makes further assurances, satisfactory to the Secretary, for the filing of uniform cost reports by each hospital, nursing facility, and intermediate care facility for the mentally retarded and periodic audits by the State of such reports;

[(B) that the State shall provide assurances satisfactory to the Secretary that the payment methodology utilized by the State for payments to hospitals can reasonably be expected not to increase such payments, solely as a result of a change of ownership, in excess of the increase which would result from the application of section 1861(v)(1)(O);

[(C) that the State shall provide assurances satisfactory to the Secretary that the valuation of capital assets,

for purposes of determining payment rates for nursing facilities and for intermediate care facilities for the mentally retarded, will not be increased (as measured from the date of acquisition by the seller to the date of the change of ownership), solely as a result of a change of ownership, by more than the lesser of—

[(i) one-half of the percentage increase (as measured over the same period of time, or, if necessary, as extrapolated retrospectively by the Secretary) in the Dodge Construction Systems Costs for Nursing Homes, applied in the aggregate with respect to those facilities which have undergone a change of ownership during the fiscal year, or

[(ii) one-half of the percentage increase (as measured over the same period of time) in the Consumer Price Index for All Urban Consumers (United States city average);

[(D) for payment for hospice care in amounts no lower than the amounts, using the same methodology, used under part A of title XVIII and for payment of amounts under section 1905(o)(3); except that in the case of hospice care which is furnished to an individual who is a resident of a nursing facility or intermediate care facility for the mentally retarded, and who would be eligible under the plan for nursing facility services or services in an intermediate care facility for the mentally retarded if he had not elected to receive hospice care, there shall be paid an additional amount, to take into account the room and board furnished by the facility, equal to at least 95 percent of the rate that would have been paid by the State under the plan for facility services in that facility for that individual;

[(E) for payment for services described in clause (B) or (C) of section 1905(a)(2) under the plan, of 100 percent of costs which are reasonable and related to the cost of furnishing such services or based on such other tests of reasonableness, as the Secretary prescribes in regulations under section 1833(a)(3), or, in the case of services to which those regulations do not apply, on the same methodology used under section 1833(a)(3); and

[(F) for payment for home and community care (as defined in section 1929(a) and provided under such section) through rates which are reasonable and adequate to meet the costs of providing care, efficiently and economically, in conformity with applicable State and Federal laws, regulations, and quality and safety standards;

[(14) provide that enrollment fees, premiums, or similar charges, and deductions, cost sharing, or similar charges, may be imposed only as provided in section 1916;

[(16) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of medical assistance under the plan to individuals who are residents of the State but are absent therefrom;

[(17) except as provided in subsections (l)(3), (m)(3), and (m)(4), include reasonable standards (which shall be comparable for all groups and may, in accordance with standards prescribed by the Secretary, differ with respect to income levels, but only in the case of applicants or recipients of assistance under the plan who are not receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI, based on the variations between shelter costs in urban areas and in rural areas) for determining eligibility for and the extent of medical assistance under the plan which (A) are consistent with the objectives of this title, (B) provide for taking into account only such income and resources as are, as determined in accordance with standards prescribed by the Secretary, available to the applicant or recipient and (in the case of any applicant or recipient who would, except for income and resources, be eligible for aid or assistance in the form of money payments under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or to have paid with respect to him supplemental security income benefits under title XVI) as would not be disregarded (or set aside for future needs) in determining his eligibility for such aid, assistance, or benefits, (C) provide for reasonable evaluation of any such income or resources, and (D) do not take into account 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); and provide for flexibility in the application of such standards with respect to income by taking into account, except to the extent prescribed by the Secretary, the costs (whether in the form of insurance premiums, payments made to the State under section 1903(f)(2)(B), or otherwise and regardless of whether such costs are reimbursed under another public program of the State or political subdivision thereof) incurred for medical care or for any other type of remedial care recognized under State law;

[(18) comply with the provisions of section 1917 with respect to liens, adjustments and recoveries of medical assistance correctly paid, transfers of assets, and treatment of certain trusts;

[(19) provide such safeguards as may be necessary to assure that eligibility for care and services under the plan will be determined, and such care and services will be provided, in a manner consistent with simplicity of administration and the best interests of the recipients;

[(20) if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases—

[(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and, where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

[(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution; and

[(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, including appropriate medical treatment and other aid or assistance; for services referred to in section 3(a)(4)(A)(i) and (ii) or section 1603(a)(4)(A)(i) and (ii) which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out;

[(21) if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing facilities, and other alternatives to care in public institutions for mental diseases;

[(22) include descriptions of (A) the kinds and numbers of professional medical personnel and supporting staff that will be used in the administration of the plan and of the responsibilities they will have, (B) the standards, for private or public institutions in which recipients of medical assistance under the plan may receive care or services, that will be utilized by the State authority or authorities responsible for establishing and maintaining such standards, (C) the cooperative arrangements with State health agencies and State vocational rehabilitation agencies entered into with a view to maximum utilization of and coordination of the provision of medical assistance with the services administered or supervised by such agencies, and (D) other standards and methods that the State will use to assure that medical or remedial care and services provided to recipients of medical assistance are of high quality;

[(23) except as provided in subsection (g) and in section 1915 and except in the case of Puerto Rico, the Virgin Islands,

and Guam, provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services, and (B) an enrollment of an individual eligible for medical assistance in a primary care case-management system (described in section 1915(b)(1)), a health maintenance organization, or a similar entity shall not restrict the choice of the qualified person from whom the individual may receive services under section 1905(a)(4)(C);

[(24) effective July 1, 1969, provide for consultative services by health agencies and other appropriate agencies of the State to hospitals, nursing facilities, home health agencies, clinics, laboratories, and such other institutions as the Secretary may specify in order to assist them (A) to qualify for payments under this Act, (B) to establish and maintain such fiscal records as may be necessary for the proper and efficient administration of this Act, and (C) to provide information needed to determine payments due under this Act on account of care and services furnished to individuals;

[(25) provide—

[(A) that the State or local agency administering such plan will take all reasonable measures to ascertain the legal liability of third parties (including health insurers, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, and health maintenance organizations) to pay for care and services available under the plan, including—

[(i) the collection of sufficient information (including the use of information collected by the Medicare and Medicaid Coverage Data Bank under section 1144 and any additional measures as specified by the Secretary in regulations) to enable the State to pursue claims against such third parties, with such information being collected at the time of any determination or redetermination of eligibility for medical assistance, and

[(ii) the submission to the Secretary of a plan (subject to approval by the Secretary) for pursuing claims against such third parties, which plan shall—

[(I) be integrated with, and be monitored as a part of the Secretary's review of, the State's mechanized claims processing and information retrieval system under section 1903(r), and

[(II) be subject to the provisions of section 1903(r)(4) relating to reductions in Federal payments for failure to meet conditions of approval, but shall not be subject to any other financial penalty as a result of any other monitoring, quality control, or auditing requirements;

【(B) that in any case where such a legal liability is found to exist after medical assistance has been made available on behalf of the individual and where the amount of reimbursement the State can reasonably expect to recover exceeds the costs of such recovery, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability;

【(C) that in the case of an individual who is entitled to medical assistance under the State plan with respect to a service for which a third party is liable for payment, the person furnishing the service may not seek to collect from the individual (or any financially responsible relative or representative of that individual) payment of an amount for that service (i) if the total of the amount of the liabilities of third parties for that service is at least equal to the amount payable for that service under the plan (disregarding section 1916), or (ii) in an amount which exceeds the lesser of (I) the amount which may be collected under section 1916, or (II) the amount by which the amount payable for that service under the plan (disregarding section 1916) exceeds the total of the amount of the liabilities of third parties for that service;

【(D) that a person who furnishes services and is participating under the plan may not refuse to furnish services to an individual (who is entitled to have payment made under the plan for the services the person furnishes) because of a third party's potential liability for payment for the service;

【(E) that in the case of prenatal or preventive pediatric care (including early and periodic screening and diagnosis services under section 1905(a)(4)(B)) covered under the State plan, the State shall—

【(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to the liability of a third party for payment for such services; and

【(ii) seek reimbursement from such third party in accordance with subparagraph (B);

【(F) that in the case of any services covered under such plan which are provided to an individual on whose behalf child support enforcement is being carried out by the State agency under part D of title IV of this Act, the State shall—

【(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to any third-party liability for payment for such services, if such third-party liability is derived (through insurance or otherwise) from the parent whose obligation to pay support is being enforced by such agency, if payment has not been made by such third party within 30 days after such services are furnished;

【(ii) seek reimbursement from such third party in accordance with subparagraph (B);

[(G) that the State plan shall meet the requirements of section 1906 (relating to enrollment of individuals under group health plans in certain cases);

[(H) that the State prohibits any health insurer (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), 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 plan under this title for such State, or any other State; and

[(I) that to the extent that payment has been made under the State plan for medical assistance in any case where a third party has a legal liability to make payment for such assistance, the State has in effect laws under which, to the extent that payment has been made under the State plan for medical assistance 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;

[(26) if the State plan includes medical assistance for inpatient mental hospital services, provide—

[(A) with respect to each patient receiving such services, for a regular program of medical review (including medical evaluation) of his need for such services, and for a written plan of care;

[(B) for periodic inspections to be made in all mental institutions within the State by one or more medical review teams (composed of physicians and other appropriate health and social service personnel) of the care being provided to each person receiving medical assistance, including (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the institution, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

[(C) for full reports to the State agency by each medical review team of the findings of each inspection under subparagraph (B), together with any recommendations;

[(27) provide for agreements with every person or institution providing services under the State plan under which such person or institution agrees (A) to keep such records as are necessary fully to disclose the extent of the services provided to individuals receiving assistance under the State plan, and (B) to furnish the State agency or the Secretary with such information, regarding any payments claimed by such person or institution for providing services under the State plan, as the State agency or the Secretary may from time to time request;

[(28) provide—

[(A) that any nursing facility receiving payments under such plan must satisfy all the requirements of sub-

sections (b) through (d) of section 1919 as they apply to such facilities;

[(B) for including in “nursing facility services” at least the items and services specified (or deemed to be specified) by the Secretary under section 1919(f)(7) and making available upon request a description of the items and services so included;

[(C) for procedures to make available to the public the data and methodology used in establishing payment rates for nursing facilities under this title; and

[(D) for compliance (by the date specified in the respective sections) with the requirements of—

[(i) section 1919(e);

[(ii) section 1919(g) (relating to responsibility for survey and certification of nursing facilities); and

[(iii) sections 1919(h)(2)(B) and 1919(h)(2)(D) (relating to establishment and application of remedies);

[(29) include a State program which meets the requirements set forth in section 1908, for the licensing of administrators of nursing homes;

[(30)(A) provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area ;

[(B) provide, under the program described in subparagraph (A), that—

[(i) each admission to a hospital, intermediate care facility for the mentally retarded, or hospital for mental diseases is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the institution providing the care involved, and

[(ii) the information developed from such review or screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 percent of all admissions and must be of sufficient size to serve the purpose of (I) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (II) subjecting admissions to



early or more extensive review where information indicates that such consideration is warranted to a hospital, intermediate care facility for the mentally retarded, or hospital for mental diseases; and

[(C) use a utilization and quality control peer review 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 services furnished under each contract under section 1903(m), with the results of such review made available to the State and, upon request, to the Secretary, the Inspector General in the Department of Health and Human Services, and the Comptroller General;

[(31) with respect to services in an intermediate care facility for the mentally retarded (where the State plan includes medical assistance for such services) provide—

[(A) with respect to each patient receiving such services, for a written plan of care, prior to admission to or authorization of benefits in such facility, in accordance with regulations of the Secretary, and for a regular program of independent professional review (including medical evaluation) which shall periodically review his need for such services;

[(B) with respect to each intermediate care facility for the mentally retarded within the State, for periodic onsite inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), including with respect to each such person (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the facility, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

[(C) for full reports to the State agency by each independent professional review team of the findings of each inspection under subparagraph (B), together with any recommendations;

[(32) provide that no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment or power of attorney or otherwise; except that—

[(A) in the case of any care or service provided by a physician, dentist, or other individual practitioner, such payment may be made (i) to the employer of such physician, dentist, or other practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee for such care or service to his employer, or (ii) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which

the care or service was provided if there is a contractual arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service;

【(B) nothing in this paragraph shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of such person or institution from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such person or institution under the plan is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment;

【(C) in the case of services furnished (during a period that does not exceed 14 continuous days in the case of an informal reciprocal arrangement or 90 continuous days (or such longer period as the Secretary may provide) in the case of an arrangement involving per diem or other fee-for-time compensation) by, or incident to the services of, one physician to the patients of another physician who submits the claim for such services, payment shall be made to the physician submitting the claim (as if the services were furnished by, or incident to, the physician's services), but only if the claim identifies (in a manner specified by the Secretary) the physician who furnished the services; and

【(D) in the case of payment for a childhood vaccine administered before October 1, 1994, to individuals entitled to medical assistance under the State plan, the State plan may make payment directly to the manufacturer of the vaccine under a voluntary replacement program agreed to by the State pursuant to which the manufacturer (i) supplies doses of the vaccine to providers administering the vaccine, (ii) periodically replaces the supply of the vaccine, and (iii) charges the State the manufacturer's price to the Centers for Disease Control and Prevention for the vaccine so administered (which price includes a reasonable amount to cover shipping and the handling of returns);

【(33) provide—

【(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of medical assistance under the plan in order to provide guidance with respect thereto in the administration of the plan to the State agency established or designated pursuant to paragraph (5)

and, where applicable, to the State agency described in the second sentence of this subsection; and

[(B) that, except as provided in section 1919(g), the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1864(a), or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform for the State agency administering or supervising the administration of the plan approved under this title the function of determining whether institutions and agencies meet the requirements for participation in the program under such plan, except that, if the Secretary has cause to question the adequacy of such determinations, the Secretary is authorized to validate State determinations and, on that basis, make independent and binding determinations concerning the extent to which individual institutions and agencies meet the requirements for participation;

[(34) provide that in the case of any individual who has been determined to be eligible for medical assistance under the plan, such assistance will be made available to him for care and services included under the plan and furnished in or after the third month before the month in which he made application (or application was made on his behalf in the case of a deceased individual) for such assistance if such individual was (or upon application would have been) eligible for such assistance at the time such care and services were furnished;

[(35) provide that any disclosing entity (as defined in section 1124(a)(2)) receiving payments under such plan complies with the requirements of section 1124;

[(36) provide that within 90 days following the completion of each survey of any health care facility, laboratory, agency, clinic, or organization, by the appropriate State agency described in paragraph (9), such agency shall (in accordance with regulations of the Secretary) make public in readily available form and place the pertinent findings of each such survey relating to the compliance of each such health care facility, laboratory, clinic, agency, or organization with (A) the statutory conditions of participation imposed under this title, and (B) the major additional conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such facility, laboratory, clinic, agency, or organization;

[(37) provide for claims payment procedures which (A) ensure that 90 per centum of claims for payment (for which no further written information or substantiation is required in order to make payment) made for services covered under the plan and furnished by health care practitioners through individual or group practices or through shared health facilities are paid within 30 days of the date of receipt of such claims and that 99 per centum of such claims are paid within 90 days of the date of receipt of such claims, and (B) provide for procedures of prepayment and postpayment claims review, including review of appropriate data with respect to the recipient and

provider of a service and the nature of the service for which payment is claimed, to ensure the proper and efficient payment of claims and management of the program;

[(38) require that an entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, items or services under the plan, shall supply (within such period as may be specified in regulations by the Secretary or by the single State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, the information described in section 1128(b)(9);

[(39) provide that the State agency shall exclude any specified individual or entity from participation in the program under the State plan for the period specified by the Secretary, when required by him 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;

[(40) require each health services facility or organization which receives payments under the plan and of a type for which a uniform reporting system has been established under section 1121(a) to make reports to the Secretary of information described in such section in accordance with the uniform reporting system (established under such section) for that type of facility or organization;

[(41) provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the State plan, the State agency shall promptly notify the Secretary and, in the case of a physician and notwithstanding paragraph (7), the State medical licensing board of such action;

[(42) provide that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan;

[(43) provide for—

[(A) informing all persons in the State who are under the age of 21 and who have been determined to be eligible for medical assistance including services described in section 1905(a)(4)(B), of the availability of early and periodic screening, diagnostic, and treatment services as described in section 1905(r) and the need for age-appropriate immunizations against vaccine-preventable diseases,

[(B) providing or arranging for the provision of such screening services in all cases where they are requested,

[(C) arranging for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services, and

[(D) reporting to the Secretary (in a uniform form and manner established by the Secretary, by age group and by basis of eligibility for medical assistance, and by not later

than April 1 after the end of each fiscal year, beginning with fiscal year 1990) the following information relating to early and periodic screening, diagnostic, and treatment services provided under the plan during each fiscal year:

[(i) the number of children provided child health screening services,

[(ii) the number of children referred for corrective treatment (the need for which is disclosed by such child health screening services),

[(iii) the number of children receiving dental services, and

[(iv) the State's results in attaining the participation goals set for the State under section 1905(r);

[(44) in each case for which payment for inpatient hospital services, services in an intermediate care facility for the mentally retarded, or inpatient mental hospital services is made under the State plan—

[(A) a physician (or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician) certifies at the time of admission, or, if later, the time the individual applies for medical assistance under the State plan (and a physician, a physician assistant under the supervision of a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician, recertifies, where such services are furnished over a period of time, in such cases, at least as often as required under section 1903(g)(6) (or, in the case of services that are services provided in an intermediate care facility for the mentally retarded, every year), and accompanied by such supporting material, appropriate to the case involved, as may be provided in regulations of the Secretary), that such services are or were required to be given on an inpatient basis because the individual needs or needed such services, and

[(B) such services were furnished under a plan established and periodically reviewed and evaluated by a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician;

[(45) provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients, in accordance with section 1912;

[(46) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act;

[(47) at the option of the State, provide for making ambulatory prenatal care available to pregnant women during a presumptive eligibility period in accordance with section 1920;

[(48) provide a method of making cards evidencing eligibility for medical assistance available to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address;

[(49) 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 1921;

[(50) provide, in accordance with subsection (q), for a monthly personal needs allowance for certain institutionalized individuals and couples;

[(51) meet the requirements of section 1924 (relating to protection of community spouses);

[(52) meet the requirements of section 1925 (relating to extension of eligibility for medical assistance);

[(53) provide—

[(A) for notifying in a timely manner all individuals in the State who are determined to be eligible for medical assistance and who are pregnant women, breastfeeding or postpartum women (as defined in section 17 of the Child Nutrition Act of 1966), or children below the age of 5, of the availability of benefits furnished by the special supplemental nutrition program under such section, and

[(B) for referring any such individual to the State agency responsible for administering such program;

[(54) in the case of a State plan that provides medical assistance for covered outpatient drugs (as defined in section 1927(k)), comply with the applicable requirements of section 1927;

[(55) provide for receipt and initial processing of applications of individuals for medical assistance under subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(ii)(IX)—

[(A) at locations which are other than those used for the receipt and processing of applications for aid under part A of title IV and which include facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(1)(2)(B), and

[(B) using applications which are other than those used for applications for aid under such part;

[(56) provide, in accordance with subsection (s), for adjusted payments for certain inpatient hospital services;

[(57) provide that each hospital, nursing facility, provider of home health care or personal care services, hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A)) receiving funds under the plan shall comply with the requirements of subsection (w);

[(58) provide that the State, acting through a State agency, association, or other private nonprofit entity, develop a written description of the law of the State (whether statutory

or as recognized by the courts of the State) concerning advance directives that would be distributed by providers or organizations under the requirements of subsection (w);

[(59) maintain a list (updated not less often than monthly, and containing each physician's unique identifier provided under the system established under subsection (v)) of all physicians who are certified to participate under the State plan;

[(60) provide that the State agency shall provide assurances satisfactory to the Secretary that the State has in effect the laws relating to medical child support required under section 1908;

[(61) provide that the State must demonstrate that it operates a medicaid fraud and abuse control unit described in section 1903(q) that effectively carries out the functions and requirements described in such section, as determined in accordance with standards established by the Secretary, 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 State 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; and

[(62) provide for a program for the distribution of pediatric vaccines to program-registered providers for the immunization of vaccine-eligible children in accordance with section 1928.

Notwithstanding paragraph (5), if on January 1, 1965, and on the date on which a State submits its plan for approval under this title, the State agency which administered or supervised the administration of the plan of such State approved under title X (or title XVI, insofar as it relates to the blind) was different from the State agency which administered or supervised the administration of the State plan approved under title I (or title XVI, insofar as it relates to the aged), the State agency which administered or supervised the administration of such plan approved under title X (or title XVI, insofar as it relates to the blind) may be designated to administer or supervise the administration of the portion of the State plan for medical assistance which relates to blind individuals and a different State agency may be established or designated to administer or supervise the administration of the rest of the State plan for medical assistance; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this title (except for purposes of paragraph (10)). The provisions of paragraphs (9)(A), (31), and (33) and of section 1903(i)(4) shall not apply to a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

[For purposes of paragraph (10) any individual who, for the month of August 1972, was eligible for or receiving aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV and who for such month was entitled to monthly insurance benefits under title II shall for purposes of this title only

be deemed to be eligible for financial aid or assistance for any month thereafter if such individual would have been eligible for financial aid or assistance for such month had the increase in monthly insurance benefits under title II resulting from enactment of Public Law 92-336 not been applicable to such individual.

[(The requirement of clause (A) of paragraph (37) with respect to a State plan may be waived by the Secretary if he finds that the State has exercised good faith in trying to meet such requirement. For purposes of this title, any child who meets the requirements of paragraph (1) or (2) of section 473(b) shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of title IV in the State where such child resides. Notwithstanding paragraph (10)(B) or any other provision of this subsection, a State plan shall provide medical assistance with respect to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law only in accordance with section 1903(v).]

[(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for medical assistance under the plan—

[(1) an age requirement of more than 65 years; or

[(2) any residence requirement which excludes any individual who resides in the State, regardless of whether or not the residence is maintained permanently or at a fixed address; or

[(3) any citizenship requirement which excludes any citizen of the United States.

[(c) Notwithstanding subsection (b), the Secretary shall not approve any State plan for medical assistance if—

[(1) the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on May 1, 1988; or

[(2) the State requires individuals described in subsection (1)(1) to apply for benefits under such part as a condition of applying for, or receiving, medical assistance under this title.

[(d) If a State contracts with an entity which meets the requirements of section 1152, as determined by the Secretary, for the performance of the quality review functions described in subsection (a)(30)(C), or a utilization and quality control peer review organization having a contract with the Secretary under part B of title XI for the performance of medical or utilization review functions (including quality review functions described in subsection (a)(30)(C)) required under this title of a State plan with respect to specific services or providers (or services or providers in a geographic area of the State), such requirements shall be deemed to be met for those services or providers (or services or providers in that area) by delegation to such an entity or organization under the contract of the State's authority to conduct such review activities if the contract provides for the performance of activities not inconsistent with part B of title XI and provides for such assurances of satisfactory performance by such an entity or organization as the Secretary may prescribe.



[(e)(1)(A) Notwithstanding any other provision of this title, effective January 1, 1974, subject to subparagraph (B) each State plan approved under this title must provide that each family which was receiving aid pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such aid because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible for assistance under the plan approved under this title (as though the family was receiving aid under the plan approved under part A of title IV) for 4 calendar months beginning with the month in which such family became ineligible for aid under the plan approved under part A of title IV because of income and resources or hours of work limitations contained in such plan.

[(B) Subparagraph (A) shall not apply with respect to families that cease to be eligible for aid under part A of title IV during the period beginning on April 1, 1990, and ending on September 30, 1998. During such period, for provisions relating to extension of eligibility for medical assistance for certain families who have received aid pursuant to a State plan approved under part A of title IV and have earned income, see section 1925.

[(2)(A) In the case of an individual who is enrolled with a qualified health maintenance organization (as defined in title XIII of the Public Health Service Act or with an entity described in paragraph (2)(B)(iii), (2)(E), (2)(G), or (6) of section 1903(m) under a contract described in section 1903(m)(2)(A) or with an eligible organization with a contract under section 1876 and who would (but for this paragraph) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in subparagraph (B)), the State plan may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but, except for benefits furnished under section 1905(a)(4)(C), only with respect to such benefits provided to the individual as an enrollee of such organization or entity.

[(B) For purposes of subparagraph (A), the term "minimum enrollment period" means, with respect to an individual's enrollment with an organization or entity under a State plan, a period, established by the State, of not more than six months beginning on the date the individual's enrollment with the organization or entity becomes effective.

[(3) At the option of the State, any individual who—

[(A) is 18 years of age or younger and qualifies as a disabled individual under section 1614(a);

[(B) 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,

[(ii) it is appropriate to provide such care for the individual outside such an institution, and

[(iii) the estimated amount which would be expended for medical assistance for the individual for such care outside an institution is not greater than the estimated

amount which would otherwise be expended for medical assistance for the individual within an appropriate institution; and

[(C) if the individual were in a medical institution, would be eligible for medical assistance under the State plan under this title,

shall be deemed, for purposes of this title only, to be an individual with respect to whom a supplemental security income payment, or State supplemental payment, respectively, is being paid under title XVI.

[(4) A child born to a woman eligible for and receiving medical assistance under a State plan on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of one year so long as the child is a member of the woman's household and the woman remains (or would remain if pregnant) eligible for such assistance. During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).

[(5) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance under the State plan, shall continue to be eligible under the plan, as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends.

[(6) In the case of a pregnant woman described in subsection (a)(10) who, because of a change in income of the family of which she is a member, would not otherwise continue to be described in such subsection, the woman shall be deemed to continue to be an individual described in subsection (a)(10)(A)(i)(IV) and subsection (l)(1)(A) without regard to such change of income through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends. The preceding sentence shall not apply in the case of a woman who has been provided ambulatory prenatal care pursuant to section 1920 during a presumptive eligibility period and is then, in accordance with such section, determined to be ineligible for medical assistance under the State plan.

[(7) In the case of an infant or child described in subparagraph (B), (C), or (D) of subsection (l)(1) or paragraph (2) of section 1905(n)—

[(A) who is receiving inpatient services for which medical assistance is provided on the date the infant or child attains the maximum age with respect to which coverage is provided under the State plan for such individuals, and

[(B) who, but for attaining such age, would remain eligible for medical assistance under such subsection, the infant or child shall continue to be treated as an individual described in such respective provision until the end of the stay for which the inpatient services are furnished.

[(8) If an individual is determined to be a qualified medicare beneficiary (as defined in section 1905(p)(1)), such determination shall apply to services furnished after the end of the month in which the determination first occurs. For purposes of payment to a State under section 1903(a), such determination shall be considered to be valid for an individual for a period of 12 months, except that a State may provide for such determinations more frequently, but not more frequently than once every 6 months for an individual.

[(9)(A) At the option of the State, the plan may include as medical assistance respiratory care services for any individual who—

[(i) is medically dependent on a ventilator for life support at least six hours per day;

[(ii) has been so dependent for at least 30 consecutive days (or the maximum number of days authorized under the State plan, whichever is less) as an inpatient;

[(iii) but for the availability of respiratory care services, would require respiratory care as an inpatient in a hospital, nursing facility, or intermediate care facility for the mentally retarded and would be eligible to have payment made for such inpatient care under the State plan;

[(iv) has adequate social support services to be cared for at home; and

[(v) wishes to be cared for at home.

[(B) The requirements of subparagraph (A)(ii) may be satisfied by a continuous stay in one or more hospitals, nursing facilities, or intermediate care facilities for the mentally retarded.

[(C) For purposes of this paragraph, respiratory care services means services provided on a part-time basis in the home of the individual by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State), payment for which is not otherwise included within other items and services furnished to such individual as medical assistance under the plan.

[(10)(A) The fact that an individual, child, or pregnant woman may be denied aid under part A of title IV pursuant to section 402(a)(43) shall not be construed as denying (or permitting a State to deny) medical assistance under this title to such individual, child, or woman who is eligible for assistance under this title on a basis other than the receipt of aid under such part.

[(B) If an individual, child, or pregnant woman is receiving aid under part A of title IV and such aid is terminated pursuant to section 402(a)(43), the State may not discontinue medical assistance under this title for the individual, child, or woman until the State has determined that the individual, child, or woman is not eligible for assistance under this title on a basis other than the receipt of aid under such part.

[(11)(A) In the case of an individual who is enrolled with a group health plan under section 1906 and who would (but for this paragraph) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in subparagraph (B)), the State plan may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue

to be eligible for such benefits until the end of such minimum period, but only with respect to such benefits provided to the individual as an enrollee of such plan.

[(B) For purposes of subparagraph (A), the term “minimum enrollment period” means, with respect to an individual’s enrollment with a group health plan, a period established by the State, of not more than 6 months beginning on the date the individual’s enrollment under the plan becomes effective.

[(f) Notwithstanding any other provision of this title, except as provided in subsection (e) and section 1619(b)(3) and section 1924, except with respect to qualified disabled and working individuals (described in section 1905(s)), and except with respect to qualified medicare beneficiaries, qualified severely impaired individuals, and individuals described in subsection (m)(1), no State not eligible to participate in the State plan program established under title XVI shall be required to provide medical assistance to any aged, blind, or disabled individual (within the meaning of title XVI) for any month unless such State would be (or would have been) required to provide medical assistance to such individual for such month had its plan for medical assistance approved under this title and in effect on January 1, 1972, been in effect in such month, except that for this purpose any such individual shall be deemed eligible for medical assistance under such State plan if (in addition to meeting such other requirements as are or may be imposed under the State plan) the income of any such individual as determined in accordance with section 1903(f) (after deducting any supplemental security income payment and State supplementary payment made with respect to such individual, and incurred expenses for medical care as recognized under State law regardless of whether such expenses are reimbursed under another public program of the State or political subdivision thereof) is not in excess of the standard for medical assistance established under the State plan as in effect on January 1, 1972. In States which provide medical assistance to individuals pursuant to paragraph (10)(C) of subsection (a) of this section, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under paragraph (10)(A) of that subsection if that individual is, or is eligible to be (1) an individual with respect to whom there is payable a State supplementary payment on the basis of which similarly situated individuals are eligible to receive medical assistance equal in amount, duration, and scope to that provided to individuals eligible under paragraph (10)(A), or (2) an eligible individual or eligible spouse, as defined in title XVI, with respect to whom supplemental security income benefits are payable; otherwise that individual shall be considered to be an individual eligible for medical assistance under paragraph (10)(C) of that subsection. In States which do not provide medical assistance to individuals pursuant to paragraph (10)(C) of that subsection, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under paragraph (10)(A) of that subsection.

[(g) In addition to any other sanction available to a State, a State 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 three times the amount of any payment sought to be collected by that person in violation of subsection (a)(25)(C).

[(h) Nothing in this title (including subsections (a)(13) and (a)(30) of this section) shall be construed as authorizing the Secretary to limit the amount of payment that may be made under a plan under this title for home and community care.

[(i)(1) In addition to any other authority under State law, where a State determines that a intermediate care facility for the mentally retarded which is certified for participation under its plan no longer substantially meets the requirements for such a facility under this title and further determines that the facility's deficiencies—

[(A) immediately jeopardize the health and safety of its patients, the State shall provide for the termination of the facility's certification for participation under the plan and may provide, or

[(B) do not immediately jeopardize the health and safety of its patients, the State may, in lieu of providing for terminating the facility's certification for participation under the plan, provide

that no payment will be made under the State plan with respect to any individual admitted to such facility after a date specified by the State.

[(2) The State shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the requirements for such a facility under this title, to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

[(3) The State's decision to deny payment may be made effective only after such notice to the public and to the facility as may be provided for by the State, and its effectiveness shall terminate (A) when the State finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the requirements for such a facility under this title, or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the State shall terminate such facility's certification for participation under the plan effective with the first day of the first month following the month specified in such clause.

[(j) 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 in American Samoa and the Northern Mariana Islands, other than a waiver of the Federal medical assistance percentage, the limitation in section 1108(c), or the requirement that payment may be made for medical assistance only with respect to amounts expended by American Samoa or the

Northern Mariana Islands for care and services described in paragraphs (1) through (25) of section 1905(a).

[(1)(1) Individuals described in this paragraph are—

[(A) women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy),

[(B) infants under one year of age,

[(C) children children who have attained one year of age but have not attained 6 years of age, and

[(D) children born after September 30, 1983, who have attained 6 years of age but have not attained 19 years of age, who are not described in any of subclauses (I) through (III) of subsection (a)(10)(A)(i) and whose family income does not exceed the income level established by the State under paragraph (2) for a family size equal to the size of the family, including the woman, infant, or child.

[(2)(A)(i) For purposes of paragraph (1) with respect to individuals described in subparagraph (A) or (B) of that paragraph, the State shall establish an income level which is a percentage (not less than the percentage provided under clause (ii) and not more than 185 percent) of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

[(ii) The percentage provided under this clause, with respect to eligibility for medical assistance on or after—

[(I) July 1, 1989, is 75 percent, or, if greater, the percentage provided under clause (iii), and

[(II) April 1, 1990, 133 percent, or, if greater, the percentage provided under clause (iv).

[(iii) In the case of a State which, as of the date of the enactment of this clause, has elected to provide, and provides, medical assistance to individuals described in this subsection or has enacted legislation authorizing, or appropriating funds, to provide such assistance to such individuals before July 1, 1989, the percentage provided under clause (ii)(I) shall not be less than—

[(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

[(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations;

but in no case shall this clause require the percentage provided under clause (ii)(I) to exceed 100 percent.

[(iv) In the case of a State which, as of the date of the enactment of this clause, has established under clause (i), or has enacted legislation authorizing, or appropriating funds, to provide for, a percentage (of the income official poverty line) that is greater than 133 percent, the percentage provided under clause (ii) for medical assistance on or after April 1, 1990, shall not be less than—

[(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

[(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations.

[(B) For purposes of paragraph (1) with respect to individuals described in subparagraph (C) of such paragraph, the State shall establish an income level which is equal to 133 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.

[(C) For purposes of paragraph (1) with respect to individuals described in subparagraph (D) of that paragraph, the State shall establish an income level which is equal to 100 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.

[(3) Notwithstanding subsection (a)(17), for individuals who are eligible for medical assistance because of subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(ii)(IX)—

[(A) application of a resource standard shall be at the option of the State;

[(B) any resource standard or methodology that is applied with respect to an individual described in subparagraph (A) of paragraph (1) may not be more restrictive than the resource standard or methodology that is applied under title XVI;

[(C) any resource standard or methodology that is applied with respect to an individual described in subparagraph (B), (C), or (D) of paragraph (1) may not be more restrictive than the corresponding methodology that is applied under the State plan under part A of title IV;

[(D) the income standard to be applied is the appropriate income standard established under paragraph (2); and

[(E) family income shall be determined in accordance with the methodology employed under the State plan under part A or E of title IV (except to the extent such methodology is inconsistent with clause (D) of subsection (a)(17)), and costs incurred for medical care or for any other type of remedial care shall not be taken into account.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.

[(4)(A) In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to provide medical assistance for pregnant women and infants under age 1 described in subsection (a)(10)(A)(i)(IV) and for children described in subsection (a)(10)(A)(i)(VI) or subsection (a)(10)(A)(i)(VII) in the same manner as the State would be required to provide such assistance for such individuals if the State had in effect a plan approved under this title.

[(B) In the case of a State which is not one of the 50 States or the District of Columbia, the State need not meet the requirement of subsection (a)(10)(A)(i)(IV) (a)(10)(A)(i)(VI), or (a)(10)(A)(i)(VII) and, for purposes of paragraph (2)(A), the State

may substitute for the percentage provided under clause (ii) of such paragraph any percentage.

[(m)(1) Individuals described in this paragraph are individuals—

[(A) who are 65 years of age or older or are disabled individuals (as determined under section 1614(a)(3)),

[(B) whose income (as determined under section 1612 for purposes of the supplemental security income program, except as provided in paragraph (2)(C)) does not exceed an income level established by the State consistent with paragraph (2)(A), and

[(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed (except as provided in paragraph (2)(B)) the maximum amount of resources that an individual may have and obtain benefits under that program.

[(2)(A) The income level established under paragraph (1)(B) may not exceed a percentage (not more than 100 percent) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

[(B) In the case of a State that provides medical assistance to individuals not described in subsection (a)(10)(A) and at the State's option, the State may use under paragraph (1)(C) such resource level (which is higher than the level described in that paragraph) as may be applicable with respect to individuals described in paragraph (1)(A) who are not described in subsection (a)(10)(A).

[(C) The provisions of section 1905(p)(2)(D) shall apply to determinations of income under this subsection in the same manner as they apply to determinations of income under section 1905(p).

[(3) Notwithstanding subsection (a)(17), for individuals described in paragraph (1) who are covered under the State plan by virtue of subsection (a)(10)(A)(ii)(X)—

[(A) the income standard to be applied is the income standard described in paragraph (1)(B), and

[(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.

[(4) Notwithstanding subsection (a)(17), for qualified medicare beneficiaries described in section 1905(p)(1)—

[(A) the income standard to be applied is the income standard described in section 1905(p)(1)(B), and

[(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.

[(n) In the case of medical assistance furnished under this title for medicare cost-sharing respecting the furnishing of a service or



item to a qualified medicare beneficiary, the State plan may provide payment in an amount with respect to the service or item that results in the sum of such payment amount and any amount of payment made under title XVIII with respect to the service or item exceeding the amount that is otherwise payable under the State plan for the item or service for eligible individuals who are not qualified medicare beneficiaries.

[(o) Notwithstanding any provision of subsection (a) to the contrary, a State plan under this title shall provide that any supplemental security income benefits paid by reason of subparagraph (E) or (G) of section 1611(e)(1) to an individual who—

[(1) is eligible for medical assistance under the plan, and

[(2) is in a hospital, skilled nursing facility, or intermediate care facility at the time such benefits are paid, will be disregarded for purposes of determining the amount of any post-eligibility contribution by the individual to the cost of the care and services provided by the hospital, skilled nursing facility, or intermediate care facility.

[(p)(1) In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the State plan under this title for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII under section 1128, 1128A, or 1866(b)(2).

[(2) In order for a State to receive payments for medical assistance under section 1903(a), with respect to payments the State makes to a health maintenance organization (as defined in section 1903(m)) or to an entity furnishing services under a waiver approved under section 1915(b)(1), the State must provide that it will exclude from participation, as such an organization or entity, any organization or entity that—

[(A) could be excluded under section 1128(b)(8) (relating to owners and managing employees who have been convicted of certain crimes or received other sanctions),

[(B) has, directly or indirectly, a substantial contractual relationship (as defined by the Secretary) with an individual or entity that is described in section 1128(b)(8)(B), or

[(C) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services.

[(3) As used in this subsection, the term “exclude” includes the refusal to enter into or renew a participation agreement or the termination of such an agreement.

[(q)(1)(A) In order to meet the requirement of subsection (a)(50), 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 State 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 paragraph (2).

[(B) In this subsection, 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.

[(2) The minimum monthly personal needs allowance described in this paragraph is \$30 for an institutionalized individual and \$60 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).

[(r)(1) For purposes of sections 1902(a)(17) and 1924(d)(1)(D) and for purposes of a waiver under section 1915, with respect to the post-eligibility treatment of income of individuals who are institutionalized or receiving home or community-based services under such a waiver 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—

[(i) medicare and other health insurance premiums, deductibles, or coinsurance, and

[(ii) 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.

[(2)(A) The methodology to be employed in determining income and resource eligibility for individuals under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), (a)(10)(A)(ii), (a)(10)(C)(i)(III), or (f) or under section 1905(p) may be less restrictive, and shall be no more restrictive, than the methodology—

[(i) in the case of groups consisting of aged, blind, or disabled individuals, under the supplemental security income program under title XVI, or

[(ii) in the case of other groups, under the State plan most closely categorically related.

[(B) For purposes of this subsection and subsection (a)(10), methodology is considered to be “no more restrictive” if, using the methodology, additional individuals may be eligible for medical assistance and no individuals who are otherwise eligible are made ineligible for such assistance.

[(s) In order to meet the requirements of subsection (a)(55), the State plan must provide that payments to hospitals under the plan for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not at-

tained the age of 6 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1), shall—

[(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay,

[(2) not be limited by the imposition of day limits with respect to the delivery of such services to such individuals, and

[(3) not be limited by the imposition of dollar limits (other than such limits resulting from prospective payments as adjusted pursuant to paragraph (1)) with respect to the delivery of such services to any such individual who has not attained their first birthday (or in the case of such an individual who is an inpatient on his first birthday until such individual is discharged).

[(t) Nothing in this title (including sections 1903(a) and 1905(a)) shall be construed as authorizing the Secretary to deny or limit payments to a State for expenditures, for medical assistance for items or services, attributable to taxes of general applicability imposed with respect to the provision of such items or services.

[(u)(1) Individuals described in this paragraph are individuals—

[(A) who are entitled to elect COBRA continuation coverage (as defined in paragraph (3)),

[(B) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 100 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) 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 may have and obtain benefits under that program, and

[(D) with respect to whose enrollment for COBRA continuation coverage the State has determined that the savings in expenditures under this title resulting from such enrollment is likely to exceed the amount of payments for COBRA premiums made.

[(2) For purposes of subsection (a)(10)(F) and this subsection, the term “COBRA premiums” means the applicable premium imposed with respect to COBRA continuation coverage.

[(3) In this subsection, the term “COBRA continuation coverage” means coverage under a group health plan provided by an employer with 75 or more employees provided pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974.

[(4) Notwithstanding subsection (a)(17), for individuals described in paragraph (1) who are covered under the State plan by virtue of subsection (a)(10)(A)(ii)(XI)—

[(A) the income standard to be applied is the income standard described in paragraph (1)(B), and

[(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(10)(B) or (a)(17), require or permit such treatment for other individuals.

[(v)(1) A State plan may provide for the making of determinations of disability or blindness for the purpose of determining eligibility for medical assistance under the State plan by the single State agency or its designee, and make medical assistance available to individuals whom it finds to be blind or disabled and who are determined otherwise eligible for such assistance during the period of time prior to which a final determination of disability or blindness is made by the Social Security Administration with respect to such an individual. In making such determinations, the State must apply the definitions of disability and blindness found in section 1614(a) of the Social Security Act.

[(w)(1) For purposes of subsection (a)(57) and sections 1903(m)(1)(A) and 1919(c)(2)(E), the requirement of this subsection is that a provider or organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization—

[(A) to provide written information to each such individual concerning—

[(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

[(ii) the provider's or organization's written policies respecting the implementation of such rights;

[(B) to document in the individual's medical record whether or not the individual has executed an advance directive;

[(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

[(D) to ensure compliance with requirements of State law (whether statutory or as recognized by the courts of the State) respecting advance directives; and

[(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

[(2) The written information described in paragraph (1)(A) shall be provided to an adult individual—

[(A) in the case of a hospital, at the time of the individual's admission as an inpatient,

[(B) in the case of a nursing facility, at the time of the individual's admission as a resident,

[(C) in the case of a provider of home health care or personal care services, in advance of the individual coming under the care of the provider,

[(D) in the case of a hospice program, at the time of initial receipt of hospice care by the individual from the program, and

[(E) in the case of a health maintenance organization, at the time of enrollment of the individual with the organization.

[(3) Nothing in this section shall be construed to prohibit the application of a State law which allows for an objection on the basis of conscience for any health care provider or any agent of such provider which as a matter of conscience cannot implement an advance directive.

[(4) In this subsection, the term "advance directive" means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State) and relating to the provision of such care when the individual is incapacitated.

[(x) The Secretary shall establish a system, for implementation by not later than July 1, 1991, which provides for a unique identifier for each physician who furnishes services for which payment may be made under a State plan approved under this title.

[(y)(1) In addition to any other authority under State law, where a State determines that a psychiatric hospital which is certified for participation under its plan no longer meets the requirements for a psychiatric hospital (referred to in section 1905(h)) and further finds that the hospital's deficiencies—

[(A) immediately jeopardize the health and safety of its patients, the State shall terminate the hospital's participation under the State plan; or

[(B) do not immediately jeopardize the health and safety of its patients, the State may terminate the hospital's participation under the State plan, or provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the effective date of the finding, or both.

[(2) Except as provided in paragraph (3), if a psychiatric hospital described in paragraph (1)(B) has not complied with the requirements for a psychiatric hospital under this title—

[(A) within 3 months after the date the hospital is found to be out of compliance with such requirements, the State shall provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the end of such 3-month period, or

[(B) within 6 months after the date the hospital is found to be out of compliance with such requirements, no Federal financial participation shall be provided under section 1903(a) with respect to further services provided in the hospital until the State finds that the hospital is in compliance with the requirements of this title.

[(3) The Secretary may continue payments, over a period of not longer than 6 months from the date the hospital is found to be out of compliance with such requirements, if—

[(A) the State finds that it is more appropriate to take alternative action to assure compliance of the hospital with the

requirements than to terminate the certification of the hospital,

[(B) 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

[(C) the State agrees to repay to the Federal Government payments received under this paragraph if the corrective action is not taken in accordance with the approved plan and timetable.

[(z)(1) Individuals described in this paragraph are individuals not described in subsection (a)(10)(A)(i)—

[(A) who are infected with tuberculosis;

[(B) whose income (as determined under the State plan under this title with respect to disabled individuals) does not exceed the maximum amount of income a disabled individual described in subsection (a)(10)(A)(i) may have and obtain medical assistance under the plan; and

[(C) whose resources (as determined under the State plan under this title with respect to disabled individuals) do not exceed the maximum amount of resources a disabled individual described in subsection (a)(10)(A)(i) may have and obtain medical assistance under the plan.

[(2) For purposes of subsection (a)(10), the term “TB-related services” means each of the following services relating to treatment of infection with tuberculosis:

[(A) Prescribed drugs.

[(B) Physicians’ services and services described in section 1905(a)(2).

[(C) Laboratory and X-ray services (including services to confirm the presence of infection).

[(D) Clinic services and Federally-qualified health center services.

[(E) Case management services (as defined in section 1915(g)(2)).

[(F) Services (other than room and board) designed to encourage completion of regimens of prescribed drugs by outpatients, including services to observe directly the intake of prescribed drugs.

#### [(PAYMENT TO STATES

[(SEC. 1903. (a) From the sums appropriated therefor, the Secretary (except as otherwise provided in this section) shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing January 1, 1966—

[(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b), subject to subsections (g) and (j) of this section and subsection 1923(f)) of the total amount expended during such quarter as medical assistance under the State plan; plus

[(2)(A) an amount equal to 75 per centum of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to compensation or training of skilled professional medical personnel, and staff directly sup-

porting such personnel, of the State agency or any other public agency; plus

[(B) notwithstanding paragraph (1) or subparagraph (A), with respect to amounts expended for nursing aide training and competency evaluation programs, and competency evaluation programs, described in section 1919(e)(1) (including the costs for nurse aides to complete such competency evaluation programs), regardless of whether the programs are provided in or outside nursing facilities or of the skill of the personnel involved in such programs, an amount equal to 50 percent (or, for calendar quarters beginning on or after July 1, 1988, and before October 1, 1990, the lesser of 90 percent or the Federal medical assistance percentage plus 25 percentage points) of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to such programs; plus

[(C) an amount equal to 75 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to preadmission screening and resident review activities conducted by the State under section 1919(e)(7); plus

[(D) for each calendar quarter during—

[(i) fiscal year 1991, an amount equal to 90 percent,

[(ii) fiscal year 1992, an amount equal to 85 percent,

[(iii) fiscal year 1993, an amount equal to 80 percent,

and

[(iv) fiscal year 1994 and thereafter, an amount equal to 75 percent,

of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to State activities under section 1919(g); plus

[(3) an amount equal to—

[(A)(i) 90 per centum of so much of the sums expended during such quarter as are attributable to the design, development, or installation of such mechanized claims processing and information retrieval systems as the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of title XVIII, including the State's share of the cost of installing such a system to be used jointly in the administration of such State's plan and the plan of any other State approved under this title, and

[(ii) 90 per centum of so much of the sums expended during any such quarter in the fiscal year ending June 30, 1972, or the fiscal year ending June 30, 1973, as are attributable to the design, development, or installation of cost determination systems for State-owned general hospitals (except that the total amount paid to all States

under this clause for either such fiscal year shall not exceed \$150,000), and

[(B) 75 per centum of so much of the sums expended during such quarter as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under a contract with the State) of the type described in subparagraph (A)(i) (whether or not designed, developed, or installed with assistance under such subparagraph) which are approved by the Secretary and which include provision for prompt written notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered, the name of the person or persons furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or payments made under the plan on account of the services; and

[(C) 75 per centum of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to the performance of medical and utilization review or quality review by a utilization and quality control peer review organization or by an entity which meets the requirements of section 1152, as determined by the Secretary, under a contract entered into under section 1902(d); and

[(D) 75 percent of so much of the sums expended by the State plan during a quarter in 1991, 1992, or 1993, as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of section 1927(g); plus

[(4) an amount equal to 100 percent of the sums expended during the quarter which are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus

[(5) an amount equal to 90 per centum of the sums expended during such quarter which are attributable to the offering, arranging, and furnishing (directly or on a contract basis) of family planning services and supplies;

[(6) subject to subsection (b)(3), an amount equal to—

[(A) 90 per centum of the sums expended during such a quarter within the twelve-quarter period beginning with the first quarter in which a payment is made to the State pursuant to this paragraph, and

[(B) 75 per centum of the sums expended during each succeeding calendar quarter, with respect to costs incurred during such quarter (as found necessary by the Secretary for the elimination of fraud in the provision and administration of medical assistance provided under the State plan) which are attributable to the establishment and operation of (including the training of personnel employed by) a State medicaid fraud control unit (described in subsection (q)); plus



[(7) subject to section 1919(g)(3)(B), an amount equal to 50 per centum of the remainder of the amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

[(b)(1) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State for any quarter beginning after December 31, 1969, shall not take into account any amounts expended as medical assistance with respect to individuals aged 65 or over and disabled individuals entitled to hospital insurance benefits under title XVIII which would not have been so expended if the individuals involved had been enrolled in the insurance program established by part B of title XVIII, other than amounts expended under provisions of the plan of such State required by section 1902(a)(34).

[(2) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1122.

[(3) The amount of funds which the Secretary is otherwise obligated to pay a State during a quarter under subsection (a)(6) may not exceed the higher of—

[(A) \$125,000, or

[(B) one-quarter of 1 per centum of the sums expended by the Federal, State, and local governments during the previous quarter in carrying out the State's plan under this title.

[(c) Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a child with a disability because such services are included in the child's individualized education program established pursuant to part B of the Individuals with Disabilities Education Act or furnished to an infant or toddler with a disability because such services are included in the child's individualized family service plan adopted pursuant to part H of such Act.

[(d)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsections (a) and (b) 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)(A) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

[(B) 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 1902(a)(25).

[(C) 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) 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) 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) 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) In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.

[(6)(A) Each State (as defined in subsection (w)(7)(D)) shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to—

[(i) provider-related donations made to the State or units of local government during such fiscal year, and

[(ii) health care related taxes collected by the State or such units during such fiscal year.

[(B) Each State shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to the total amount of payment adjustments made, and the amount of payment adjustments made to individual providers (by provider), under section 1923(c) during such fiscal year.

[(e) A State plan approved under this title may include, as a cost with respect to hospital services under the plan under this title, periodic expenditures made to reflect transitional allowances established with respect to a hospital closure or conversion under section 1884.

[(f)(1)(A) Except as provided in paragraph (4), payment under the preceding provisions of this section shall not be made with respect to any amount expended as medical assistance in a calendar quarter, in any State, for any member of a family the annual income of which exceeds the applicable income limitation determined under this paragraph.

[(B)(i) Except as provided in clause (ii) of this subparagraph, the applicable income limitation with respect to any family is the amount determined, in accordance with standards prescribed by the Secretary, to be equivalent to 133 $\frac{1}{3}$  percent of the highest amount which would ordinarily be paid to a family of the same size without any income or resources, in the form of money payments, under the plan of the State approved under part A of title IV of this Act.

[(ii) If the Secretary finds that the operation of a uniform maximum limits payments to families of more than one size, he may adjust the amount otherwise determined under clause (i) to take account of families of different sizes.

[(C) The total amount of any applicable income limitation determined under subparagraph (B) shall, if it is not a multiple of \$100 or such other amount as the Secretary may prescribe, be rounded to the next higher multiple of \$100 or such other amount, as the case may be.

[(2)(A) In computing a family's income for purposes of paragraph (1), there shall be excluded any costs (whether in the form of insurance premiums or otherwise and regardless of whether such costs are reimbursed under another public program of the State or political subdivision thereof) incurred by such family for medical care or for any other type of remedial care recognized under State law or, (B) notwithstanding section 1916 at State option, an amount paid by such family, at the family's option, to the State, provided that the amount, when combined with costs incurred in prior months, is sufficient when excluded from the family's income to reduce such family's income below the applicable income limitation described in paragraph (1). The amount of State expenditures for which medical assistance is available under subsection (a)(1) will be reduced by amounts paid to the State pursuant to this subparagraph..

[(3) For purposes of paragraph (1)(B), in the case of a family consisting of only one individual, the "highest amount which would ordinarily be paid" to such family under the State's plan approved under part A of title IV of this Act shall be the amount determined by the State agency (on the basis of reasonable relationship to the amounts payable under such plan to families consisting of two or more persons) to be the amount of the aid which would ordinarily be payable under such plan to a family (without any income or resources) consisting of one person if such plan provided for aid to such a family.

[(4) The limitations on payment imposed by the preceding provisions of this subsection shall not apply with respect to any amount expended by a State as medical assistance for any individual described in section 1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V), 1902(a)(10)(A)(i)(VI), 1902(a)(10)(A)(i)(VII), 1902(a)(10)(A)(ii)(IX), 1902(a)(10)(A)(ii)(X), or 1905(p)(1) or for any individual—

[(A) who is receiving aid or assistance under any plan of the State approved under title I, X, XIV or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or

[(B) who is not receiving such aid or assistance, and with respect to whom such benefits are not being paid, but (i) is eligible to receive such aid or assistance, or to have such benefits paid with respect to him, or (ii) would be eligible to receive such aid or assistance, or to have such benefits paid with respect to him if he were not in a medical institution, or

[(C) with respect to whom there is being paid, or who is eligible, or would be eligible if he were not in a medical institution, to have paid with respect to him, a State supplementary payment and is eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), but only if the income of such individual (as determined under section 1612, but without regard to subsection (b) thereof) does not exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1),

at the time of the provision of the medical assistance giving rise to such expenditure.

[(g)(1) Subject to paragraph (3), with respect to amounts paid for the following services furnished under the State plan after June 30, 1973 (other than services furnished pursuant to a contract with a health maintenance organization as defined in section 1876 or which is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act)), the Federal medical assistance percentage shall be decreased as follows: After an individual has received inpatient hospital services or services in an intermediate care facility for the mentally retarded for 60 days or inpatient mental hospital services for 90 days (whether or not such days are consecutive), during any fiscal year, the Federal medical assistance percentage with respect to amounts paid for any such care furnished thereafter to such individual shall be decreased by a per centum thereof (determined under paragraph (5)) unless the State agency responsible for the administration of the plan makes a showing satisfactory to the Secretary that, with respect to each calendar quarter for which the State submits a request for payment at the full Federal medical assistance percentage for amounts paid for inpatient hospital services or services in an intermediate care facility for the mentally retarded furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days), such State has an effective program of medical review of the care of patients in mental hospitals and intermediate care facilities for the mentally retarded pursuant to paragraphs (26) and (31) of section 1902(a) whereby the professional management of each case is re-

viewed and evaluated at least annually by independent professional review teams. In determining the number of days on which an individual has received services described in this subsection, there shall not be counted any days with respect to which such individual is entitled to have payments made (in whole or in part) on his behalf under section 1812.

[(2) The Secretary shall, as part of his validation procedures under this subsection, conduct timely sample onsite surveys of private and public institutions in which recipients of medical assistance may receive care and services under a State plan approved under this title, and his findings with respect to such surveys (as well as the showings of the State agency required under this subsection) shall be made available for public inspection.

[(3)(A) No reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under this subsection shall take effect—

[(i) if such reduction is due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning before January 1, 1977;

[(ii) before January 1, 1978;

[(iii) unless a notice of such reduction has been provided to the State at least 30 days before the date such reduction takes effect; or

[(iv) due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning after September 30, 1977, unless notice of such reduction has been provided to the State no later than the first day of the fourth calendar quarter following the calendar quarter with respect to which such showing was made.

[(B) The Secretary shall waive application of any reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under paragraph (1) because a showing by the State, made under such paragraph with respect to a calendar quarter ending after January 1, 1977, and before January 1, 1978, is determined to be either unsatisfactory under such paragraph or invalid under paragraph (2), if the Secretary determines that the State's showing made under paragraph (1) with respect to any calendar quarter ending on or before December 31, 1978, is satisfactory under such paragraph and is valid under paragraph (2).

[(4)(A) The Secretary may not find the showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory if the showing is submitted to the Secretary later than the 30th day after the last day of the calendar quarter, unless the State demonstrates to the satisfaction of the Secretary good cause for not meeting such deadline.

[(B) The Secretary shall find a showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory under such paragraph with respect to the requirement that the State conduct annual onsite inspections in mental hospitals and intermediate care facilities for the mentally retarded under paragraphs (26) and (31) of section 1902(a), if the showing demonstrates that the State has conducted such an onsite inspection during the 12-month period ending on the last date of the calendar quarter—

[(i) in each of not less than 98 per centum of the number of such hospitals and facilities requiring such inspection, and

[(ii) in every such hospital or facility which has 200 or more beds,

and that, with respect to such hospitals and facilities not inspected within such period, the State has exercised good faith and due diligence in attempting to conduct such inspection, or if the State demonstrates to the satisfaction of the Secretary that it would have made such a showing but for failings of a technical nature only.

[(5) In the case of a State's unsatisfactory or invalid showing made with respect to a type of facility or institutional services in a calendar quarter, the per centum amount of the reduction of the State's Federal medical assistance percentage for that type of services under paragraph (1) is equal to  $33\frac{1}{3}$  per centum multiplied by a fraction, the denominator of which is equal to the total number of patients receiving that type of services in that quarter under the State plan in facilities or institutions for which a showing was required to be made under this subsection, and the numerator of which is equal to the number of such patients receiving such type of services in that quarter in those facilities or institutions for which a satisfactory and valid showing was not made for that calendar quarter.

[(6)(A) Recertifications required under section 1902(a)(44) shall be conducted at least every 60 days in the case of inpatient hospital services.

[(B) Such recertifications in the case of services in an intermediate care facility for the mentally retarded shall be conducted at least—

[(i) 60 days after the date of the initial certification,

[(ii) 180 days after the date of the initial certification,

[(iii) 12 months after the date of the initial certification,

[(iv) 18 months after the date of the initial certification,

[(v) 24 months after the date of the initial certification,

and

[(vi) every 12 months thereafter.

[(C) For purposes of determining compliance with the schedule established by this paragraph, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required and the State establishes good cause why the physician or other person making such recertification did not meet such schedule.

[(i) Payment under the preceding provisions of this section shall not be made—

[(1) for organ transplant procedures unless the State plan provides for written standards respecting the coverage of such procedures and unless such standards provide that—

[(A) similarly situated individuals are treated alike;

and

[(B) any restriction, on the facilities or practitioners which may provide such procedures, is consistent with the accessibility of high quality care to individuals eligible for the procedures under the State plan; or

[(2) with respect to any amount expended for an item or service (other than an emergency item or service, not including items or services furnished in an emergency room of a hospital) furnished—

[(A) under the plan by any individual or entity during any period when the individual or entity is 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) at the medical direction or on the prescription of a physician, during the period when such physician is excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2) and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).

[(3) with respect to any amount expended for inpatient hospital services furnished under the plan (other than amounts attributable to the special situation of a hospital which serves a disproportionate number of low income patients with special needs) to the extent that such amount exceeds the hospital's customary charges with respect to such services or (if such services are furnished under the plan by a public institution free of charge or at nominal charges to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide fair compensation to such institution for such services; or

[(4) with respect to any amount expended for care or services furnished under the plan by a hospital unless such hospital has in effect a utilization review plan which meets the requirements imposed by section 1861(k) for purposes of title XVIII; and if such hospital has in effect such a utilization review plan for purposes of title XVIII, such plan shall serve as the plan required by this subsection (with the same standards and procedures and the same review committee or group) as a condition of payment under this title; the Secretary is authorized to waive the requirements of this paragraph if the State agency demonstrates to his satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1861(k); or

[(5) with respect to any amount expended for any drug product for which payment may not be made under part B of title XVIII because of section 1862(c); or

[(6) with respect to any amount expended for inpatient hospital tests (other than in emergency situations) not specifically ordered by the attending physician or other responsible practitioner; or

[(7) with respect to any amount expended for clinical diagnostic laboratory tests performed by a physician, independent laboratory, or hospital, to the extent such amount exceeds the amount that would be recognized under section 1833(h) for such tests performed for an individual enrolled under part B of title XVIII; or

[(8) with respect to any amount expended for medical assistance (A) for nursing facility services to reimburse (or otherwise compensate) a nursing facility for payment of a civil money penalty imposed under section 1919(h) or (B) for home and community care to reimburse (or otherwise compensate) a provider of such care for payment of a civil money penalty imposed under this title or title XI or for legal expenses in defense of an exclusion or civil money penalty under this title or title XI if there is no reasonable legal ground for the provider's case; or

[(9) with respect to any amount of medical assistance for pregnant women and children described in section 1902(a)(10)(A)(ii)(IX), if the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on July 1, 1987;

[(10)(A) with respect to covered outpatient drugs unless there is a rebate agreement in effect under section 1927 with respect to such drugs or unless section 1927(a)(3) applies, and

[(B) with respect to any amount expended for an innovator multiple source drug (as defined in section 1927(k)) dispensed on or after July 1, 1991, if, under applicable State law, a less expensive multiple source drug could have been dispensed, but only to the extent that such amount exceeds the upper payment limit for such multiple source drug;

[(11) with respect to any amount expended for physicians' services furnished on or after the first day of the first quarter beginning more than 60 days after the date of establishment of the physician identifier system under section 1902(x), unless the claim for the services includes the unique physician identifier provided under such system;

[(12) with respect to any amount expended for physicians' services furnished by a physician on or after January 1, 1992, to—

[(A) a child under 21 years of age, unless the physician—

[(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics,

[(ii) is employed by, or affiliated with, a Federally-qualified health center (as defined in section 1905(l)(2)(B)),

[(iii) holds admitting privileges at a hospital participating in a State plan approved under this title,

[(iv) is a member of the National Health Service Corps,

[(v) documents a current, formal, consultation and referral arrangement with a pediatrician or family practitioner who has the certification described in clause (i) for purposes of specialized treatment and admission to a hospital, or



[(vi) has been certified by the Secretary as qualified to provide physicians' services to a child under 21 years of age; or

[(B) to a pregnant woman (or during the 60 day period beginning on the date of termination of the pregnancy) unless the physician—

[(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics,

[(ii) is employed by, or affiliated with, a Federally-qualified health center (as defined in section 1905(l)(2)(B)),

[(iii) holds admitting privileges at a hospital participating in a State plan approved under this title,

[(iv) is a member of the National Health Service Corps,

[(v) documents a current, formal, consultation and referral arrangement with an obstetrician or family practitioner who has the certification described in clause (i) for purposes of specialized treatment and admission to a hospital, or

[(vi) has been certified by the Secretary as qualified to provide physicians' services to pregnant women; or

[(13) with respect to any amount expended to reimburse (or otherwise compensate) a nursing facility for payment of legal expenses associated with any action initiated by the facility that is dismissed on the basis that no reasonable legal ground existed for the institution of such action;

[(14) with respect to any amount expended on administrative costs to carry out the program under section 1928; or

[(15) with respect to any amount expended for a single-antigen vaccine and its administration in any case in which the administration of a combined-antigen vaccine was medically appropriate (as determined by the Secretary).

Nothing in paragraph (1) shall be construed as permitting a State to provide services under its plan under this title that are not reasonable in amount, duration, and scope to achieve their purpose.

[(j) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State for any quarter shall be adjusted in accordance with section 1914.

[(k) The Secretary is authorized to provide at the request of any State (and without cost to such State) such technical and actuarial assistance as may be necessary to assist such State to contract with any health maintenance organization which meets the requirements of subsection (m) of this section for the purpose of providing medical care and services to individuals who are entitled to medical assistance under this title.

[(m)(1)(A) The term "health maintenance organization" means a public or private organization, organized under the laws of any State, which meets the requirement of section 1902(w) is a qualified health maintenance organization (as defined in section 1310(d)

of the Public Health Service Act) or which meets the requirement of section 1902(a) and—

[(i) makes services it provides to individuals eligible for benefits under this title accessible to such individuals, within the area served by the organization, to the same extent as such services are made accessible to individuals (eligible for medical assistance under the State plan) not enrolled with the organization, and

[(ii) has made adequate provision against the risk of insolvency, which provision is satisfactory to the State and which assures that individuals eligible for benefits under this title are in no case held liable for debts of the organization in case of the organization's insolvency.

[(B) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a health maintenance organization within the meaning of subparagraph (A), shall be integrated with the administration of section 1312 (a) and (b) of the Public Health Service Act.

[(2)(A) Except as provided in subparagraphs (B), (C), and (G), no payment shall be made under this title to a State with respect to expenditures incurred by it for payment (determined under a prepaid capitation basis or under any other risk basis) for services provided by any entity (including a health insuring organization) which is responsible for the provision (directly or through arrangements with providers of services) of inpatient hospital services and any other service described in paragraph (2), (3), (4), (5), or (7) of section 1905(a) or for the provision of any three or more of the services described in such paragraphs unless—

[(i) the Secretary has determined that the entity is a health maintenance organization as defined in paragraph (1);

[(ii) less than 75 percent of the membership of the entity which is enrolled on a prepaid basis consists of individuals who (I) are insured for benefits under part B of title XVIII or for benefits under both parts A and B of such title, or (II) are eligible to receive benefits under this title;

[(iii) such services are provided for the benefit of individuals eligible for benefits under this title in accordance with a contract between the State and the entity under which prepaid payments to the entity are made on an actuarially sound basis and under which the Secretary must provide prior approval for contracts providing for expenditures in excess of \$100,000;

[(iv) such contract provides that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the entity (and of any subcontractor) that pertain (I) to the ability of the entity to bear the risk of potential financial losses, or (II) to services performed or determinations of amounts payable under the contract;

[(v) such contract provides that in the entity's enrollment, reenrollment, or disenrollment of individuals who are eligible for benefits under this title and eligible to enroll, reenroll, or disenroll with the entity pursuant to the contract, the entity will not discriminate among such individuals on the basis of their health status or requirements for health care services;

[(vi) such contract (I) except as provided under subparagraph (F), permits individuals who have elected under the plan to enroll with the entity for provision of such benefits to terminate such enrollment without cause as of the beginning of the first calendar month following a full calendar month after the request is made for such termination, and (II) provides for notification of each such individual, at the time of the individual's enrollment, of such right to terminate such enrollment;

[(vii) such contract provides that, in the case of medically necessary services which were provided (I) to an individual enrolled with the entity under the contract and entitled to benefits with respect to such services under the State's plan and (II) other than through the organization because the services were immediately required due to an unforeseen illness, injury, or condition, either the entity or the State provides for reimbursement with respect to those services,

[(viii) such contract provides for disclosure of information in accordance with section 1124 and paragraph (4) of this subsection;

[(ix) such contract provides, in the case of an entity that has entered into a contract for the provision of services of such center with a federally qualified health center, that (I) rates of prepayment from the State are adjusted to reflect fully the rates of payment specified in section 1902(a)(13)(E), and (II) at the election of such center payments made by the entity to such a center for services described in 1905(a)(2)(C) are made at the rates of payment specified in section 1902(a)(13)(E);

[(x) any physician incentive plan that it operates meets the requirements described in section 1876(i)(8); and

[(xi) such contract provides for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients.

[(B) Subparagraph (A) except with respect to clause (ix) of subparagraph (A), does not apply with respect to payments under this title to a State with respect to expenditures incurred by it for payment for services provided by an entity which—

[(i)(I) received a grant of at least \$100,000 in the fiscal year ending June 30, 1976, under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act, and for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title has been the recipient of a grant under either such section; and

[(II) provides to its enrollees, on a prepaid capitation risk basis or on any other risk basis, all of the services and benefits described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1905(a) and, to the extent required by section 1902(a)(10)(D) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1905(a); or

[(ii) is a nonprofit primary health care entity located in a rural area (as defined by the Appalachian Regional Commission)—

[(I) which received in the fiscal year ending June 30, 1976, at least \$100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, and

[(II) for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title either has been the recipient of a grant, subgrant, or subcontract under such Act or has provided services under a contract (initially entered into during a year in which the entity was the recipient of such a grant, subgrant, or subcontract) with a State agency under this title on a prepaid capitation risk basis or on any other risk basis; or

[(iii) which has contracted with the single State agency for the provision of services (but not including inpatient hospital services) to persons eligible under this title on a prepaid risk basis prior to 1970.

[(C) Subparagraph (A)(ii) shall not apply with respect to payments under this title to a State with respect to expenditures incurred by it for payment for services by an entity during the three-year period beginning on the date of enactment of this subsection or beginning on the date the entity qualifies as a health maintenance organization (as determined by the Secretary), whichever occurs later, but only if the entity demonstrates to the satisfaction of the Secretary by the submission of plans for each year of such three-year period that it is making continuous efforts and progress toward achieving compliance with subparagraph (A)(ii).

[(D) In the case of a health maintenance organization that is a public entity, the Secretary may modify or waive the requirement described in subparagraph (A)(ii) but only if the Secretary determines that the organization has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under the State plan approved under this title or under title XVIII.

[(E) In the case of a health maintenance organization that—

[(i) is a nonprofit organization with at least 25,000 members,

[(ii) is and has been a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) for a period of at least four years,

[(iii) provides basic health services through members of the staff of the organization,

[(iv) is located in an area designated as medically underserved under section 1302(7) of the Public Health Service Act, and

[(v) previously received a waiver of the requirement described in subparagraph (A)(ii) under section 1115, the Secretary may modify or waive the requirement described in subparagraph (A)(ii) but only if the Secretary determines that special circumstances warrant such modification or waiver and that the organization has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under the State plan approved under this title or under title XVIII.

[(F) In the case of—

[(i) a contract with an entity described in subparagraph (E) or (G), with a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) which meets the requirement of subparagraph (A)(ii), or with an eligible organization with a contract under section 1876 which meets the requirement of subparagraph (A)(ii), or

[(ii) a program pursuant to an undertaking described in paragraph (6) in which at least 25 percent of the membership enrolled on a prepaid basis are individuals who (I) are not insured for benefits under part B of title XVIII or eligible for benefits under this title, and (II) (in the case of such individuals whose prepayments are made in whole or in part by any government entity) had the opportunity at the time of enrollment in the program to elect other coverage of health care costs that would have been paid in whole or in part by any governmental entity,

a State plan may restrict the period in which requests for termination of enrollment without cause under subparagraph (A)(vi)(I) are permitted to the first month of each period of enrollment, each such period of enrollment not to exceed six months in duration, but only if the State provides notification, at least twice per year, to individuals enrolled with such entity or organization of the right to terminate such enrollment and the restriction on the exercise of this right. Such restriction shall not apply to requests for termination of enrollment for cause.

[(G) In the case of an entity which is receiving (and has received during the previous two years) a grant of at least \$100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act or is receiving (and has received during the previous two years) at least \$100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, clauses (i) and (ii) of subparagraph (A) shall not apply.

[(H) In the case of an individual who—

[(i) in a month is eligible for benefits under this title and enrolled with a health maintenance organization with a contract under this paragraph,

[(ii) in the next month (or in the next 2 months) is not eligible for such benefits, but

[(iii) in the succeeding month is again eligible for such benefits,

the State plan, subject to subparagraph (A)(vi), may enroll the individual for that succeeding month with the health maintenance organization described in clause (i) if the organization continues to have a contract under this paragraph with the State.

[(4)(A) Each health maintenance organization which is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) must report to the State and, upon request, to the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General a description of transactions between the organization and a party in interest (as defined in section 1318(b) of such Act), including the following transactions:

[(i) Any sale or exchange, or leasing of any property between the organization and such a party.

[(ii) Any furnishing for consideration of goods, services (including management services), or facilities between the organization and such a party, but not including salaries paid to employees for services provided in the normal course of their employment.

[(iii) Any lending of money or other extension of credit between the organization and such a party.

The State or Secretary may require that information reported respecting an organization which controls, or is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

[(B) Each organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

[(5)(A) If the Secretary determines that an entity with a contract under this subsection—

[(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

[(ii) imposes premiums on individuals enrolled under this subsection in excess of the premiums permitted under this title;

[(iii) acts to discriminate among individuals in violation of the provision of paragraph (2)(A)(v), including expulsion or refusal to re-enroll an individual or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this subsection) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

[(iv) misrepresents or falsifies information that is furnished—

[(I) to the Secretary or the State under this subsection, or

[(II) to an individual or to any other entity under this subsection, or

[(v) fails to comply with the requirements of section 1876(i)(8),

the Secretary may provide, in addition to any other remedies available under law, for any of the remedies described in subparagraph (B).

[(B) The remedies described in this subparagraph are—

[(i) civil money penalties of not more than \$25,000 for each determination under subparagraph (A), or, with respect to a determination under clause (iii) or (iv)(I) of such subparagraph, of not more than \$100,000 for each such determination, plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under sub-

paragraph (A)(iii), \$15,000 for each individual not enrolled as a result of a practice described in such subparagraph, or

[(ii) denial of payment to the State for medical assistance furnished under the contract under this subsection for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

[(6)(A) For purposes of this subsection and section 1902(e)(2)(A), in the case of the State of New Jersey, the term “contract” shall be deemed to include an undertaking by the State agency, in the State plan under this title, to operate a program meeting all requirements of this subsection.

[(B) The undertaking described in subparagraph (A) must provide—

[(i) for the establishment of a separate entity responsible for the operation of a program meeting the requirements of this subsection, which entity may be a subdivision of the State agency administering the State plan under this title;

[(ii) for separate accounting for the funds used to operate such program;

[(iii) for setting the capitation rates and any other payment rates for services provided in accordance with this subsection using a methodology satisfactory to the Secretary designed to ensure that total Federal matching payments under this title for such services will be lower than the matching payments that would be made for the same services, if provided under the State plan on a fee for service basis to an actuarially equivalent population; and

[(iv) that the State agency will contract, for purposes of meeting the requirement under section 1902(a)(30)(C), with an organization or entity that under section 1154 reviews services provided by an eligible organization pursuant to a contract under section 1876 for the purpose of determining whether the quality of services meets professionally recognized standards of health care.

[(C) The undertaking described in subparagraph (A) shall be subject to approval (and annual re-approval) by the Secretary in the same manner as a contract under this subsection.

[(D) The undertaking described in subparagraph (A) shall not be eligible for a waiver under section 1915(b).

[(o) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under the preceding provisions of this section for expenditures for medical assistance provided for an individual under its State plan approved under this title 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.

[(p)(1) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of rights of support or payment assigned under section 1912, pursuant to a cooperative arrangement under such section (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of payments for medical assistance provided to the eligible individuals on whose behalf such enforcement and collection was made, an amount equal to 15 percent of any amount collected which is attributable to such rights of support or payment.

[(2) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraph (1) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.

[(q) For the purposes of this section, the term "State medicaid fraud control unit" means a single identifiable entity of the State government which the Secretary certifies (and annually recertifies) as meeting the following requirements:

[(1) 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, approved by the Secretary, 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 are approved by the Secretary and 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) The entity is separate and distinct from the single State agency that administers or supervises the administration of the State plan under this title.

[(3) 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 under this title.

[(4) 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) 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 facilities and that are discovered by the entity in carrying out its activities.

[(6) 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.

[(7) The entity submits to the Secretary an application and annual reports containing such information as the Secretary determines, by regulation, to be necessary to determine whether the entity meets the other requirements of this subsection.

[(r)(1)(A) In order to receive payments under paragraphs (2)(A) and (7) of subsection (a) without being subject to per centum reductions set forth in subparagraph (C) of this paragraph, a State must provide that mechanized claims processing and information retrieval systems of the type described in subsection (a)(3)(B) and detailed in an advance planning document approved by the Secretary are operational on or before the deadline established under subparagraph (B).

[(B) The deadline for operation of such systems for a State is September 30, 1985.

[(C) If a State fails to meet the deadline established under subparagraph (B), the per centums specified in paragraphs (2)(A) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quarters beginning on or after such deadline, and shall be further reduced by an additional 5 percentage points after each period consisting of two quarters during which the Secretary determines the State fails to meet the requirements of subparagraph (A); except that—

[(i) neither such per centum may be reduced by more than 25 percentage points by reason of this paragraph; and

[(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State meets the requirements of subparagraph (A).

[(2)(A) In order to receive payments under paragraphs (2)(A) and (7) of subsection (a) without being subject to the per centum reductions set forth in subparagraph (C) of this paragraph, a State must have its mechanized claims processing and information retrieval systems, of the type required to be operational under paragraph (1), initially approved by the Secretary in accordance with paragraph (5)(A) on or before the deadline established under subparagraph (B).

[(B) The deadline for approval of such systems for a State is the last day of the fourth quarter that begins after the date on which the Secretary determines that such systems became operational as required under paragraph (1).

[(C) If a State fails to meet the deadline established under subparagraph (B), the per centums specified in paragraphs (2)(A) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quarters beginning

after such deadline, and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters during which the State fails to meet the requirements of subparagraph (A); except that—

[(i) neither such per centum may be reduced by more than 25 percentage points by reason of this paragraph, and

[(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State's systems are approved by the Secretary as provided in subparagraph (A).

[(D) Any State's systems which are approved by the Secretary for purposes of subsection (a)(3)(B) on or before the date of the enactment of this subsection shall be deemed to be initially approved for purposes of this subsection.

[(3)(A) When a State's systems are initially approved, the 75 per centum Federal matching provided in subsection (a)(3)(B) shall become effective with respect to such systems, retroactive to the first quarter beginning after the date on which such systems became operational as required under paragraph (1), except as provided in subparagraph (B).

[(B) In the case of any State which was subject to a per centum reduction under paragraph (2), the per centum specified in subsection (a)(3)(B) shall be reduced by 5 percentage points for the first two quarters beginning after the deadline established under paragraph (2)(B), and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters beginning after such deadline and before the date on which such systems are initially approved, except that no reduction shall be made under this paragraph for any quarter following the quarter during which the State's systems are initially approved by the Secretary.

[(4)(A) The Secretary shall review all approved systems not less often than once every three years, and shall reapprove or disapprove any such systems. Systems which fail to meet the current performance standards, system requirements, and any other conditions for approval developed by the Secretary under paragraph (6) shall be disapproved. Any State having systems which are so disapproved shall be subject to a per centum reduction under subparagraph (B). The Secretary shall make the determination of reapproval or disapproval and so notify the States not later than the end of the first quarter following the review period. Reviews may, at the Secretary's discretion, constitute reviews of the entire system or of only those standards, systems requirements, and other conditions which have demonstrated weakness in previous reviews.

[(B) If the Secretary disapproves a State's systems under subparagraph (A), the Secretary shall, with respect to such State for quarters beginning after the determination of disapproval and before the first quarter beginning after such systems are reapproved, reduce the per centum specified in subsection (a)(3)(B) to a per centum of not less than 50 per centum and not more than 70 per centum as the Secretary determines to be appropriate and commensurate with the nature of noncompliance by such State; except that such per centum may not be reduced by more than 10 percentage points in any 4-quarter period by reason of this subparagraph. No

State shall be subject to a per centum reduction under this paragraph (i) before the fifth quarter beginning after such State's systems were initially approved, or (ii) on the basis of a review conducted before October 1, 1981.

[(C) The Secretary may retroactively waive a per centum reduction imposed under subparagraph (B), if the Secretary determines that the State's systems meet all current performance standards and other requirements for reapproval and that such action would improve the administration of the State's plan under this title, except that no such waiver may extend beyond the four quarters immediately prior to the quarter in which the State's systems are reapproved.

[(5)(A) In order to be initially approved by the Secretary, mechanized claims processing and information retrieval systems must be of the type described in subsection (a)(3)(B) and must meet the following requirements:

[(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types of services and items, including prescribed drugs.

[(ii) The State must provide that information on probable fraud or abuse which is obtained from, or developed by, the systems, is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

[(iii) The systems must meet all performance standards and other requirements for initial approval developed by the Secretary under paragraph (6).

[(B) In order to be reapproved by the Secretary, mechanized claims processing and information retrieval systems must meet the requirements of subparagraphs (A)(i) and (A)(ii) and performance standards and other requirements for reapproval developed by the Secretary under paragraph (6).

[(6) The Secretary, with respect to State systems, shall—

[(A) develop performance standards, system requirements, and other conditions for approval for use in initially approving such State systems, and shall further develop written approval procedures for conducting reviews for initial approval, including specific criteria for assessing systems in operation to insure that all such performance standards and other requirements are met;

[(B) by not later than October 1, 1980, develop an initial set of performance standards, system requirements, and other conditions for reapproval for use in reapproving or disapproving State systems, and shall further develop written reapproval procedures for conducting reviews for reapproval, including specific criteria for reassessing systems operations over a period of at least six months during each fiscal year to insure that all such performance standards and other requirements are met on a continuous basis;

[(C) provide that reviews for reapproval, conducted before October 1, 1981, shall be for the purpose of developing a systems performance data base and assisting States to improve their systems, and that no per centum reduction shall be made under paragraph (4) on the basis of such a review;

[(D) insure that review procedures, performance standards, and other requirements developed under subparagraph (B) are sufficiently flexible to allow for differing administrative needs among the States, and that such procedures, standards, and requirements are of a nature which will permit their use by the States for self-evaluation;

[(E) notify all States of proposed procedures, standards, and other requirements at least one quarter prior to the fiscal year in which such procedures, standards, and other requirements will be used for conducting reviews for reapproval;

[(F) periodically update the systems performance standards, system requirements, review criteria, objectives, regulations, and guides as the Secretary shall from time to time deem appropriate;

[(G) provide technical assistance to States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse;

[(H) for the purpose of insuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

[(i) develop a uniform identification coding system (to the extent feasible) for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under such plans or title;

[(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

[(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII;

[(I) develop and disseminate clear definitions of those types of reasonable costs relating to State systems which are reimbursable under the provisions of subsection (a)(3) of this section; and

[(J) develop and disseminate performance standards for assessing the State's third party collection efforts in accordance with section 1902(a)(25)(A)(ii).

[(7)(A) The Secretary shall waive the provisions of this subsection with respect to initial operation and approval of mechanized claims processing and information retrieval systems with respect to any State which—

[(i) had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures (including Federal reimbursement) for which Federal financial participation is authorized under this title of less than \$100,000,000 in fiscal year 1976 (as reported by such State for such year), or

[(ii) is a Commonwealth, or territory or possession, of the United States,

if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title.

[(B) If the Secretary determines that the application of the provisions described in subparagraph (A) to a State would significantly improve the efficiency of the administration of the State's plan under this title, the Secretary may withdraw the State's waiver under subparagraph (A) and, in such case, the Secretary shall impose a timetable for such State with respect to compliance with the provisions of this subsection and the imposition of per centum reductions. Such timetable shall be comparable to the timetable established under this subsection as to the amount of time allowed such State to comply and the timing of per centum reductions.

[(8)(A) The per centum reductions provided for under this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the relevant requirements of this subsection—

[(i) for good cause (but such a waiver may not be for a period in excess of 2 quarters), or

[(ii) due to circumstances beyond the control of such State.

[(B) If the Secretary determines under subparagraph (A) that such a reduction will not apply to a State, the Secretary shall report to the Congress on the basis for each such determination and on the modification of all time limitations and deadlines as described in subparagraph (C).

[(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A)(ii) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly.

[(s) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under this section for expenditures for medical assistance under the State plan consisting of a designated health service (as defined in subsection (h)(6) of section 1877) furnished to an individual on the basis of a referral that would result in the denial of payment for the service under title XVIII if such title provided for coverage of such service to the same extent and under the same terms and conditions as under the State plan, and subsections (f) and (g)(5) of such section shall apply to a provider of such a designated health service for which payment may be made under this title in the same manner as such subsections apply to a provider of such a service for which payment may be made under such title.

[(u)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State's erroneous excess payments for medical assistance (as defined in subparagraph (D)) to its total expenditures for medical assistance under the State plan approved under this title exceeds 0.03, for the period consisting of the third and fourth quarters of fiscal year 1983, or for any full fiscal year thereafter, then the Secretary shall make no payment for such period or fiscal year with

respect to so much of such erroneous excess payments as exceeds such allowable error rate of 0.03.

[(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a period or fiscal year despite a good faith effort by such State.

[(C) In estimating the amount to be paid to a State under subsection (d), the Secretary shall take into consideration the limitation on Federal financial participation imposed by subparagraph (A) and shall reduce the estimate he makes under subsection (d)(1), for purposes of payment to the State under subsection (d)(3), in light of any expected erroneous excess payments for medical assistance (estimated in accordance with such criteria, including sampling procedures, as he may prescribe and subject to subsequent adjustment, if necessary, under subsection (d)(2)).

[(D)(i) For purposes of this subsection, the term “erroneous excess payments for medical assistance” means the total of—

[(I) payments under the State plan with respect to ineligible individuals and families, and

[(II) overpayments on behalf of eligible individuals and families by reason of error in determining the amount of expenditures for medical care required of an individual or family as a condition of eligibility.

[(ii) In determining the amount of erroneous excess payments for medical assistance to an ineligible individual or family under clause (i)(I), if such ineligibility is the result of an error in determining the amount of the resources of such individual or family, the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment with respect to such individual or family, or (II) the difference between the actual amount of such resources and the allowable resource level established under the State plan.

[(iii) In determining the amount of erroneous excess payments for medical assistance to an individual or family under clause (i)(II), the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment on behalf of the individual or family, or (II) the difference between the actual amount incurred for medical care by the individual or family and the amount which should have been incurred in order to establish eligibility for medical assistance.

[(iv) In determining the amount of erroneous excess payments, there shall not be included any error resulting from a failure of an individual to cooperate or give correct information with respect to third-party liability as required under section 1912(a)(1)(C) or 402(a)(26)(C) or with respect to payments made in violation of section 1906.

[(v) In determining the amount of erroneous excess payments, there shall not be included any erroneous payments made for ambulatory prenatal care provided during a presumptive eligibility period (as defined in section 1920(b)(1)).

[(E) For purposes of subparagraph (D), there shall be excluded, in determining both erroneous excess payments for medical assistance and total expenditures for medical assistance—

[(i) payments with respect to any individual whose eligibility therefor was determined exclusively by the Secretary under an agreement pursuant to section 1634 and such other classes of individuals as the Secretary may by regulation prescribe whose eligibility was determined in part under such an agreement; and

[(ii) payments made as the result of a technical error.

[(2) The State agency administering the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made (or expected, with respect to future periods specified by the Secretary) in connection with its administration of such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

[(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

[(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State's error rates for a fiscal year, the amount that would otherwise be payable to such State under this title for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

[(4) This subsection shall not apply with respect to Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, or American Samoa.

[(v)(1) Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment may be made to a State under this section 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) Payment shall be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

[(A) such care and services are necessary for the treatment of an emergency medical condition of the alien,

[(B) such alien otherwise meets the eligibility requirements for medical assistance under the State plan approved under this title (other than the 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) 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 im-

mediate 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.

[(w)(1)(A) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

[(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

[(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

[(II) donations described in paragraph (2)(C);

[(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B));

[(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax; or

[(iv) only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995, from broad-based health care related taxes to the extent the amount of such taxes collected exceeds the limit established under paragraph (5).

[(B) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under subsection (a)(7) for all quarters in a Federal fiscal year (beginning with fiscal year 1993), the total amount expended during the fiscal year for administrative expenditures under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the State plan under this title during the fiscal year for purposes described in paragraphs (2), (3), (4), (6), and (7) of subsection (a).

[(C)(i) Except as otherwise provided in clause (ii), subparagraph (A)(i) shall apply to donations received on or after January 1, 1992.

[(ii) Subject to the limits described in clause (iii) and subparagraph (E), subparagraph (A)(i) shall not apply to donations received before the effective date specified in subparagraph (F) if such donations are received under programs in effect or as described in State plan amendments or related documents submitted to the Secretary by September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.



[(iii) In applying clause (ii) in the case of donations received in State fiscal year 1993, the maximum amount of such donations to which such clause may be applied may not exceed the total amount of such donations received in the corresponding period in State fiscal year 1992 (or not later than 5 days after the last day of the corresponding period).

[(D)(i) Except as otherwise provided in clause (ii), subparagraphs (A)(ii) and (A)(iii) shall apply to taxes received on or after January 1, 1992.

[(ii) Subparagraphs (A)(ii) and (A)(iii) shall not apply to impermissible taxes (as defined in clause (iii)) received before the effective date specified in subparagraph (F) to the extent the taxes (including the tax rate or base) were in effect, or the legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

[(iii) In this subparagraph and subparagraph (E), the term “impermissible tax” means a health care related tax for which a reduction may be made under clause (ii) or (iii) of subparagraph (A).

[(E)(i) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for the portion of State fiscal year 1992 occurring during calendar year 1992 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in the portion of that fiscal year.

[(ii) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for State fiscal year 1993 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in that fiscal year.

[(F) In this paragraph in the case of a State—

[(i) except as provided in clause (iii), with a State fiscal year beginning on or before July 1, the effective date is October 1, 1992,

[(ii) except as provided in clause (iii), with a State fiscal year that begins after July 1, the effective date is January 1, 1993, or

[(iii) with a State legislature which is not scheduled to have a regular legislative session in 1992, with a State legislature which is not scheduled to have a regular legislative session in 1993, or with a provider-specific tax enacted on November 4, 1991, the effective date is July 1, 1993.

[(2)(A) In this subsection (except as provided in paragraph (6)), the term “provider-related donation” means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

[(i) a health care provider (as defined in paragraph (7)(B)),

[(ii) an entity related to a health care provider (as defined in paragraph (7)(C)), or

[(iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph (2), (3), (4), (6), or (7) of subsection (a).

[(B) For purposes of paragraph (1)(A)(i)(I), the term “bona fide provider-related donation” means a provider-related donation that has no direct or indirect relationship (as determined by the Sec-

retary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

[(C) For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (including costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under this title and to provide outreach services to eligible or potentially eligible individuals.

[(3)(A) In this subsection (except as provided in paragraph (6)), the term “health care related tax” means a tax (as defined in paragraph (7)(F)) that—

[(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services, or

[(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

[(B) In this subsection, the term “broad-based health care related tax” means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (7)(A)) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

[(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal, nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

[(ii) is imposed uniformly (in accordance with subparagraph (C)).

[(C)(i) Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

[(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

[(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed of each provider of such items or services in the class;

[(III) in the case of a tax based on revenues or receipts with respect to a class of items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

[(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

[(ii) Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that is inconsistent with subclauses (I) and (II) of subparagraph (E)(ii) or provides for a hold harmless provision described in paragraph (4).

[(D) A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

[(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment is made under a State plan under this title or title XVIII, or

[(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a State plan under this title or title XVIII.

[(E)(i) A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraph (B) or (C). Permissible waivers may include exemptions for rural or sole-community providers.

[(ii) The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

[(I) the net impact of the tax and associated expenditures under this title as proposed by the State is generally redistributive in nature, and

[(II) the amount of the tax is not directly correlated to payments under this title for items or services with respect to which the tax is imposed.

The Secretary shall by regulation specify types of credits, exclusions, and deductions that will be considered to meet the requirements of this subparagraph.

[(4) For purposes of paragraph (1)(A)(iii), there is in effect a hold harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

[(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the State plan.

[(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

[(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

The provisions of this paragraph shall not prevent use of the tax to reimburse health care providers in a class for expenditures under this title nor preclude States from relying on such reimbursement to justify or explain the tax in the legislative process.

[(5)(A) For purposes of this subsection, the limit under this subparagraph with respect to a State is an amount equal to 25 percent (or, if greater, the State base percentage, as defined in subparagraph (B)) of the non-Federal share of the total amount expended under the State plan during a State fiscal year (or portion thereof), as it would be determined pursuant to paragraph (1)(A) without regard to paragraph (1)(A)(iv).

[(B)(i) In subparagraph (A), the term "State base percentage" means, with respect to a State, an amount (expressed as a percentage) equal to—

[(I) the total of the amount of health care related taxes (whether or not broad-based) and the amount of provider-related donations (whether or not bona fide) projected to be collected (in accordance with clause (ii)) during State fiscal year 1992, divided by

[(II) the non-Federal share of the total amount estimated to be expended under the State plan during such State fiscal year.

[(ii) For purposes of clause (i)(I), in the case of a tax that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal year, the Secretary shall project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year.

[(C)(i) The total amount of health care related taxes under subparagraph (B)(i)(I) shall be determined by the Secretary based on only those taxes (including the tax rate or base) which were in effect, or for which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

[(ii) The amount of provider-related donations under subparagraph (B)(i)(I) shall be determined by the Secretary based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

[(iii) The amount of expenditures described in subparagraph (B)(i)(II) shall be determined by the Secretary based on the best data available as of the date of the enactment of this subsection.

[(6)(A) Notwithstanding the provisions of this subsection, the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State university teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under this title, regardless of whether the unit of government is also a health care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-Federal share under this section.

[(B) For purposes of this subsection, funds the use of which the Secretary may not restrict under subparagraph (A) shall not be considered to be a provider-related donation or a health care related tax.

[(7) For purposes of this subsection:

[(A) Each of the following shall be considered a separate class of health care items and services:

[(i) Inpatient hospital services.

[(ii) Outpatient hospital services.

[(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

[(iv) Services of intermediate care facilities for the mentally retarded.

[(v) Physicians' services.

[(vi) Home health care services.

[(vii) Outpatient prescription drugs.

[(viii) Services of health maintenance organizations (and other organizations with contracts under section 1903(m)).

[(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

[(B) The term "health care provider" means an individual or person that receives payments for the provision of health care items or services.

[(C) An entity is considered to be "related" to a health care provider if the entity—

[(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

[(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

[(iii) is the employee, spouse, parent, child, or sibling of the provider (or of a person described in clause (ii)); or

[(iv) has a similar, close relationship (as defined in regulations) to the provider.

[(D) The term "State" means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

[(E) The "State fiscal year" means, with respect to a specified year, a State fiscal year ending in that specified year.

[(F) The term "tax" includes any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty

imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

[(G) The term “unit of local government” means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.

#### 【OPERATION OF STATE PLANS

【SEC. 1904. If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this title, finds—

[(1) that the plan has been so changed that it no longer complies with the provisions of section 1902; or

[(2) that in the administration of the plan there is a failure to comply substantially with any such provision;  
the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

#### 【DEFINITIONS

【SEC. 1905. For purposes of this title—

[(a) The term “medical assistance” means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance or, in the case of medicare cost-sharing with respect to a qualified medicare beneficiary described in subsection (p)(1), if provided after the month in which the individual becomes such a beneficiary) for individuals, and, with respect to physicians’ or dentists’ services, at the option of the State, to individuals (other than individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A)) not receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI, who are—

[(i) under the age of 21, or, at the option of the State, under the age of 20, 19, or 18 as the State may choose,

[(ii) relatives specified in section 406(b)(1) with whom a child is living if such child is (or would, if needy, be) a dependent child under part A of title IV,

[(iii) 65 years of age or older,

[(iv) blind, with respect to States eligible to participate in the State plan program established under title XVI,

[(v) 18 years of age or older and permanently and totally disabled, with respect to States eligible to participate in the State plan program established under title XVI,

[(vi) persons essential (as described in the second sentence of this subsection) to individuals receiving aid or assistance under State plans approved under title I, X, XIV, or XVI,

[(vii) blind or disabled as defined in section 1614, with respect to States not eligible to participate in the State plan program established under title XVI,

[(viii) pregnant women,

[(ix) individuals provided extended benefits under section 1925,

[(x) individuals described in section 1902(u)(1), or

[(xi) individuals described in section 1902(z)(1),

but whose income and resources are insufficient to meet all of such cost—

[(1) inpatient hospital services (other than services in an institution for mental diseases);

[(2)(A) outpatient hospital services, (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (1)(1)) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (1)(1)) and which are otherwise included in the plan, and (C) Federally-qualified health center services (as defined in subsection (1)(2)) and any other ambulatory services offered by a Federally-qualified health center and which are otherwise included in the plan;

[(3) other laboratory and X-ray services;

[(4)(A) nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older; (B) early and periodic screening, diagnostic, and treatment services (as defined in subsection (r)) for individuals who are eligible under the plan and are under the age of 21; and (C) family planning services and supplies furnished (directly or under arrangements with others) to individuals of child-bearing age (including minors who can be considered to be sexually active) who are eligible under the State plan and who desire such services and supplies;

[(5)(A) physicians' services furnished by a physician (as defined in section 1861(r)(1)), whether furnished in the office, the patient's home, a hospital, or a nursing facility, or elsewhere, and (B) medical and surgical services furnished by a dentist (described in section 1861(r)(2)) to the extent such services may be performed under State law either by a doctor of medicine or by a doctor of dental surgery or dental medicine and would be described in clause (A) if furnished by a physician (as defined in section 1861(r)(1));

[(6) medical care, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law;

[(7) home health care services;

[(8) private duty nursing services;

[(9) clinic services furnished by or under the direction of a physician, without regard to whether the clinic itself is ad-

ministered by a physician, including such services furnished outside the clinic by clinic personnel to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address;

[(10) dental services;

[(11) physical therapy and related services;

[(12) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

[(13) other diagnostic, screening, preventive, and rehabilitative services, including any medical or remedial services (provided in a facility, a home, or other setting) recommended by a physician or other licensed practitioner of the healing arts within the scope of their practice under State law, for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level;

[(14) inpatient hospital services and nursing facility services for individuals 65 years of age or over in an institution for mental diseases;

[(15) services in an intermediate care facility for the mentally retarded (other than in an institution for mental diseases) for individuals who are determined, in accordance with section 1902(a)(31)(A), to be in need of such care;

[(16) effective January 1, 1973, inpatient psychiatric hospital services for individuals under age 21, as defined in subsection (h);

[(17) services furnished by a nurse-midwife (as defined in section 1861(gg)) which the nurse-midwife is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider, and without regard to whether or not the services are performed in the area of management of the care of mothers and babies throughout the maternity cycle;

[(18) hospice care (as defined in subsection (o));

[(19) case management services (as defined in section 1915(g)(2)) and TB-related services described in section 1902(z)(2)(F);

[(20) respiratory care services (as defined in section 1902(e)(9)(C));

[(21) services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner (as defined by the Secretary) which the certified pediatric nurse practitioner or certified family nurse practitioner is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified pediatric nurse practitioner or certified family nurse practitioner is under the supervision of, or associated with, a physician or other health care provider;

[(22) home and community care (to the extent allowed and as defined in section 1929) for functionally disabled elderly individuals;



[(23) community supported living arrangements services (to the extent allowed and as defined in section 1930);

[(24) personal care services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease that are (A) authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, and (C) furnished in a home or other location; and

[(25) any other medical care, and any other type of remedial care recognized under State law, specified by the Secretary.

except as otherwise provided in paragraph (16), such term does not include—

[(A) any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution); or

[(B) any such payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases.

For purposes of clause (vi) of the preceding sentence, a person shall be considered essential to another individual if such person is the spouse of and is living with such individual, the needs of such person are taken into account in determining the amount of aid or assistance furnished to such individual (under a State plan approved under title I, X, XIV, or XVI), and such person is determined, under such a State plan, to be essential to the well-being of such individual. The payment described in the first sentence may include expenditures for medicare cost-sharing and for premiums under part B of title XVIII for individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), and, except in the case of individuals 65 years of age or older and disabled individuals entitled to health insurance benefits under title XVIII who are not enrolled under part B of title XVIII, other insurance premiums for medical or any other type of remedial care or the cost thereof. No service (including counseling) shall be excluded from the definition of "medical assistance" solely because it is provided as a treatment service for alcoholism or drug dependency.

[(b) The term "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum 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; except that

(1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, and (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 50 per centum. The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(8)(B). Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended 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).

[(c) For definition of the term "nursing facility", see section 1919(a).

[(d) The term "intermediate care facility for the mentally retarded" means an institution (or distinct part thereof) for the mentally retarded or persons with related conditions if—

[(1) the primary purpose of such institution (or distinct part thereof) is to provide health or rehabilitative services for mentally retarded individuals and the institution meets such standards as may be prescribed by the Secretary;

[(2) the mentally retarded individual with respect to whom a request for payment is made under a plan approved under this title is receiving active treatment under such a program; and

[(3) in the case of a public institution, the State or political subdivision responsible for the operation of such institution has agreed that the non-Federal expenditures in any calendar quarter prior to January 1, 1975, with respect to services furnished to patients in such institution (or distinct part thereof) in the State will not, because of payments made under this title, be reduced below the average amount expended for such services in such institution in the four quarters immediately preceding the quarter in which the State in which such institution is located elected to make such services available under its plan approved under this title.

[(e) In the case of any State the State plan of which (as approved under this title)—

[(1) does not provide for the payment of services (other than services covered under section 1902(a)(12)) provided by an optometrist; but

[(2) at a prior period did provide for the payment of services referred to in paragraph (1);

the term "physicians' services" (as used in subsection (a)(5)) shall include services of the type which an optometrist is legally authorized to perform where the State plan specifically provides that the term "physicians' services", as employed in such plan, includes services of the type which an optometrist is legally authorized to perform, and shall be reimbursed whether furnished by a physician or an optometrist.

[(f) For purposes of this title, the term "nursing facility services" means services which are or were required to be given an in-

dividual who needs or needed on a daily basis nursing care (provided directly by or requiring the supervision of nursing personnel) or other rehabilitation services which as a practical matter can only be provided in a nursing facility on an inpatient basis.

[(g) If the State plan includes provision of chiropractors' services, such services include only—

[(1) services provided by a chiropractor (A) who is licensed as such by the State and (B) who meets uniform minimum standards promulgated by the Secretary under section 1861(r)(5); and

[(2) services which consist of treatment by means of manual manipulation of the spine which the chiropractor is legally authorized to perform by the State.

[(h)(1) For purposes of paragraph (16) of subsection (a), the term "inpatient psychiatric hospital services for individuals under age 21" includes only—

[(A) inpatient services which are provided in an institution (or distinct part thereof) which is a psychiatric hospital as defined in section 1861(f) or in another inpatient setting that the Secretary has specified in regulations;

[(B) inpatient services which, in the case of any individual (i) involve active treatment which meets such standards as may be prescribed in regulations by the Secretary, and (ii) a team, consisting of physicians and other personnel qualified to make determinations with respect to mental health conditions and the treatment thereof, has determined are necessary on an inpatient basis and can reasonably be expected to improve the condition, by reason of which such services are necessary, to the extent that eventually such services will no longer be necessary; and

[(C) inpatient services which, in the case of any individual, are provided prior to (i) the date such individual attains age 21, or (ii) in the case of an individual who was receiving such services in the period immediately preceding the date on which he attained age 21, (I) the date such individual no longer requires such services, or (II) if earlier, the date such individual attains age 22;

[(2) Such term does not include services provided during any calendar quarter under the State plan of any State if the total amount of the funds expended, during such quarter, by the State (and the political subdivisions thereof) from non-Federal funds for inpatient services included under paragraph (1), and for active psychiatric care and treatment provided on an outpatient basis for eligible mentally ill children, is less than the average quarterly amount of the funds expended, during the 4-quarter period ending December 31, 1971, by the State (and the political subdivisions thereof) from non-Federal funds for such services.

[(i) The term "institution for mental diseases" means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.

[(j) The term "State supplementary payment" means any cash payment made by a State on a regular basis to an individual who

is receiving supplemental security income benefits under title XVI or who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits (as determined by the Commissioner of Social Security), but only to the extent that such payments are made with respect to an individual with respect to whom supplemental security income benefits are payable under title XVI, or would but for his income be payable under that title.

[(k) Increased supplemental security income benefits payable pursuant to section 211 of Public Law 93-66 shall not be considered supplemental security income benefits payable under title XVI.

[(1)(1) 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)(A) The term “Federally-qualified health center services” means services of the type described in subparagraphs (A) through (C) of section 1861(aa)(1) when furnished to an individual as an 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.

[(B) 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.

[(m)(1) Subject to paragraph (2), the term “qualified family member” means an individual (other than a qualified pregnant woman or child, as defined in subsection (n)) who is a member of a family that would be receiving aid under the State plan under part A of title IV pursuant to section 407 if the State had not exercised the option under section 407(b)(2)(B)(i).

[(2) No individual shall be a qualified family member for any period after September 30, 1998.

[(n) The term “qualified pregnant woman or child” means—

[(1) a pregnant woman who—

[(A) would be eligible for aid to families with dependent children under part A of title IV (or would be eligible for such aid if coverage under the State plan under part A of title IV included aid to families with dependent children of unemployed parents pursuant to section 407) if her child had been born and was living with her in the month such aid would be paid, and such pregnancy has been medically verified;

[(B) is a member of a family which would be eligible for aid under the State plan under part A of title IV pursuant to section 407 if the plan required the payment of aid pursuant to such section; or

[(C) otherwise meets the income and resources requirements of a State plan under part A of title IV; and

[(2) a child who has not attained the age of 19, who was born after September 30, 1983 (or such earlier date as the State may designate), and who meets the income and resources requirements of the State plan under part A of title IV.

[(o)(1)(A) Subject to subparagraph (B), the term “hospice care” means the care described in section 1861(dd)(1) furnished by a hospice program (as defined in section 1861(dd)(2)) to a terminally ill individual who has voluntarily elected (in accordance with paragraph (2)) to have payment made for hospice care instead of having payment made for certain benefits described in section 1812(d)(2)(A) and for which payment may otherwise be made under title XVIII and intermediate care facility services under the plan. For purposes of such election, hospice care may be provided to an individual while such individual is a resident of a skilled nursing facility or intermediate care facility, but the only payment made under the State plan shall be for the hospice care.

[(B) For purposes of this title, with respect to the definition of hospice program under section 1861(dd)(2), the Secretary may allow an agency or organization to make the assurance under subparagraph (A)(iii) of such section without taking into account any individual who is afflicted with acquired immune deficiency syndrome (AIDS).

[(2) An individual’s voluntary election under this subsection —

[(A) shall be made in accordance with procedures that are established by the State and that are consistent with the procedures established under section 1812(d)(2);

[(B) shall be for such a period or periods (which need not be the same periods described in section 1812(d)(1)) as the State may establish; and

[(C) may be revoked at any time without a showing of cause and may be modified so as to change the hospice program with respect to which a previous election was made.

[(3) In the case of an individual—

[(A) who is residing in a nursing facility or intermediate care facility for the mentally retarded and is receiving medical assistance for services in such facility under the plan,

[(B) who is entitled to benefits under part A of title XVIII and has elected, under section 1812(d), to receive hospice care under such part, and

[(C) with respect to whom the hospice program under such title and the nursing facility or intermediate care facility for the mentally retarded have entered into a written agreement under which the program takes full responsibility for the professional management of the individual's hospice care and the facility agrees to provide room and board to the individual, instead of any payment otherwise made under the plan with respect to the facility's services, the State shall provide for payment to the hospice program of an amount equal to the additional amount described in section 1902(a)(13)(D) and, if the individual is an individual described in section 1902(a)(10)(A), shall provide for payment of any coinsurance amounts imposed under section 1813(a)(4).

[(p)(1) 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 (2)(D)) does not exceed an income level established by the State consistent with paragraph (2), 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.

[(2)(A) The income level established under paragraph (1)(B) shall be at least the percent provided under subparagraph (B) (but not more than 100 percent) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

[(B) Except as provided in subparagraph (C), the percent provided under this clause, with respect to eligibility for medical assistance on or after—

[(i) January 1, 1989, is 85 percent,

[(ii) January 1, 1990, is 90 percent, and

[(iii) January 1, 1991, is 100 percent.

[(C) In the case of a State which has elected treatment under section 1902(f) and which, as of January 1, 1987, used an income standard for individuals age 65 or older which was more restrictive than the income standard established under the supplemental security income program under title XVI, the percent provided under subparagraph (B), with respect to eligibility for medical assistance on or after—

[(i) January 1, 1989, is 80 percent,

[(ii) January 1, 1990, is 85 percent,

[(iii) January 1, 1991, is 95 percent, and

[(iv) January 1, 1992, is 100 percent.

[(D)(i) 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 clause (ii)) 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.

[(ii) For purposes of clause (i), the term “transition month” means each month in a year through the month following the month in which the annual revision of the official poverty line, referred to in subparagraph (A), is published.

[(3) The term “medicare cost-sharing” means the following costs incurred with respect to a qualified medicare beneficiary, without regard to whether the costs incurred were for items and services for which medical assistance is otherwise available under the plan:

[(A)(i) premiums under section 1818 or 1818A, and

[(ii) premiums under section 1839,

[(B) Coinsurance under title XVIII (including coinsurance described in section 1813).

[(C) Deductibles established under title XVIII (including those described in section 1813 and section 1833(b)).

[(D) 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”.

Such term also may include, at the option of a State, premiums for enrollment of a qualified medicare beneficiary with an eligible organization under section 1876.

[(4) Notwithstanding any other provision of this title, in the case of a State (other than the 50 States and the District of Columbia)—

[(A) the requirement stated in section 1902(a)(10)(E) shall be optional, and

[(B) for purposes of paragraph (2), the State may substitute for the percent provided under subparagraph (B) of such paragraph or 1902(a)(10)(E)(iii) any percent.

In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirement of section 1902(a)(10)(E) in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

[(q) The term “qualified severely impaired individual” means an individual under age 65—

[(1) who for the month preceding the first month to which this subsection applies to such individual—

[(A) received (i) a payment of supplemental security income benefits under section 1611(b) on the basis of blindness or disability, (ii) a supplementary payment under section 1616 of this Act or under section 212 of Public Law 93-66 on such basis, (iii) a payment of monthly benefits

under section 1619(a), or (iv) a supplementary payment under section 1616(c)(3), and

[(B) was eligible for medical assistance under the State plan approved under this title; and

[(2) with respect to whom the Commissioner of Social Security determines that—

[(A) the individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under title XVI,

[(B) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments),

[(C) the lack of eligibility for benefits under this title would seriously inhibit his ability to continue or obtain employment, and

[(D) the individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits under title XVI (including any federally administered State supplementary payments), this title, and publicly funded attendant care services (including personal care assistance) that would be available to him in the absence of such earnings.

In the case of an individual who is eligible for medical assistance pursuant to section 1619(b) in June, 1987, the individual shall be a qualified severely impaired individual for so long as such individual meets the requirements of paragraph (2).

[(r) The term "early and periodic screening, diagnostic, and treatment services" means the following items and services:

[(1) Screening services—

[(A) which are provided—

[(i) at intervals which meet reasonable standards of medical and dental practice, as determined by the State after consultation with recognized medical and dental organizations involved in child health care and, with respect to immunizations under subparagraph (B)(iii), in accordance with the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines, and

[(ii) at such other intervals, indicated as medically necessary, to determine the existence of certain physical or mental illnesses or conditions; and

[(B) which shall at a minimum include—

[(i) a comprehensive health and developmental history (including assessment of both physical and mental health development),

[(ii) a comprehensive unclothed physical exam,

[(iii) appropriate immunizations (according to the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines) according to age and health history,



[(iv) laboratory tests (including lead blood level assessment appropriate for age and risk factors), and

[(v) health education (including anticipatory guidance).

[(2) Vision services—

[(A) which are provided—

[(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

[(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

[(B) which shall at a minimum include diagnosis and treatment for defects in vision, including eyeglasses.

[(3) Dental services—

[(A) which are provided—

[(i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care, and

[(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

[(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

[(4) Hearing services—

[(A) which are provided—

[(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

[(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

[(B) which shall at a minimum include diagnosis and treatment for defects in hearing, including hearing aids.

[(5) Such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan.

Nothing in this title shall be construed as limiting providers of early and periodic screening, diagnostic, and treatment services to providers who are qualified to provide all of the items and services described in the previous sentence or as preventing a provider that is qualified under the plan to furnish one or more (but not all) of such items or services from being qualified to provide such items and services as part of early and periodic screening, diagnostic, and treatment services. The Secretary shall, not later than July 1, 1990, and every 12 months thereafter, develop and set annual participation goals for each State for participation of individuals who

are covered under the State plan under this title in early and periodic screening, diagnostic, and treatment services.

[(s) The term “qualified disabled and working individual” means an individual—

[(1) who is entitled to enroll for hospital insurance benefits under part A of title XVIII under section 1818A (as added by 6012 of the Omnibus Budget Reconciliation Act of 1989);

[(2) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 200 percent of the official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved;

[(3) 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

[(4) who is not otherwise eligible for medical assistance under this title.

#### [ENROLLMENT OF INDIVIDUALS UNDER GROUP HEALTH PLANS

[SEC. 1906. (a) For purposes of section 1902(a)(25)(G) and subject to subsection (d), each State plan—

[(1) shall implement guidelines established by the Secretary, consistent with subsection (b), to identify those cases in which enrollment of an individual otherwise entitled to medical assistance under this title in a group health plan (in which the individual is otherwise eligible to be enrolled) is cost-effective (as defined in subsection (e)(2));

[(2) shall require, in case of an individual so identified and as a condition of the individual being or remaining eligible for medical assistance under this title and subject to subsection (b)(2), notwithstanding any other provision of this title, that the individual (or in the case of a child, the child’s parent) apply for enrollment in the group health plan; and

[(3) in the case of such enrollment (except as provided in subsection (c)(1)(B)), shall provide for payment of all enrollee premiums for such enrollment and all deductibles, coinsurance, and other cost-sharing obligations for items and services otherwise covered under the State plan under this title (exceeding the amount otherwise permitted under section 1916), and shall treat coverage under the group health plan as a third party liability (under section 1902(a)(25)).

[(b)(1) In establishing guidelines under subsection (a)(1), the Secretary shall take into account that an individual may only be eligible to enroll in group health plans at limited times and only if other individuals (not entitled to medical assistance under the plan) are also enrolled in the plan simultaneously.

[(2) If a parent of a child fails to enroll the child in a group health plan in accordance with subsection (a)(2), such failure shall not affect the child’s eligibility for benefits under this title.

[(c)(1)(A) In the case of payments of premiums, deductibles, coinsurance, and other cost-sharing obligations under this section shall be considered, for purposes of section 1903(a), to be payments for medical assistance.

[(B) If all members of a family are not eligible for medical assistance under this title and enrollment of the members so eligible in a group health plan is not possible without also enrolling members not so eligible—

[(i) payment of premiums for enrollment of such other members shall be treated as payments for medical assistance for eligible individuals, if it would be cost-effective (taking into account payment of all such premiums), but

[(ii) payment of deductibles, coinsurance, and other cost-sharing obligations for such other members shall not be treated as payments for medical assistance for eligible individuals.

[(2) The fact that an individual is enrolled in a group health plan under this section shall not change the individual's eligibility for benefits under the State plan, except insofar as section 1902(a)(25) provides that payment for such benefits shall first be made by such plan.

[(d)(1) In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

[(2) This section, and section 1902(a)(25)(G), shall only apply to a State that is one of the 50 States or the District of Columbia.

[(e) In this section:

[(1) The term "group health plan" has the meaning given such term in section 5000(b)(1) of the Internal Revenue Code of 1986, and includes the provision of continuation coverage by such a plan pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974.

[(2) The term "cost-effective" means, as established by the Secretary, that the reduction in expenditures under this title with respect to an individual who is enrolled in a group health plan is likely to be greater than the additional expenditures for premiums and cost-sharing required under this section with respect to such enrollment.

#### [OBSERVANCE OF RELIGIOUS BELIEFS

[SEC. 1907. Nothing in this title shall be construed to require any State which has a plan approved under this title to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under such plan for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, his parent or guardian objects) thereto on religious grounds.

[STATE PROGRAMS FOR LICENSING OF ADMINISTRATORS OF NURSING HOMES]

【SEC. 1908. (a) For purposes of section 1902(a)(29), a “State program for the licensing of administrators of nursing homes” is a program which provides that no nursing home within the State may operate except under the supervision of an administrator licensed in the manner provided in this section.

【(b) Licensing of nursing home administrators shall be carried out by the agency of the State responsible for licensing under the healing arts licensing act of the State, or, in the absence of such act or such an agency, a board representative of the professions and institutions concerned with care of chronically ill and infirm aged patients and established to carry out the purposes of this section.

【(c) It shall be the function and duty of such agency or board to—

【(1) develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

【(2) develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

【(3) issue licenses to individuals determined, after the application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

【(4) establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

【(5) receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards; and

【(6) conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

【(d) No State shall be considered to have failed to comply with the provisions of section 1902(a)(29) because the agency or board of such State (established pursuant to subsection (b)) shall have granted any waiver, with respect to any individual who, during all of the three calendar years immediately preceding the calendar

year in which the requirements prescribed in section 1902(a)(29) are first met by the State, has served as a nursing home administrator, of any of the standards developed, imposed, and enforced by such agency or board pursuant to subsection (c).

[(e) As used in this section, the term—

[(1) “nursing home” means any institution or facility defined as such for licensing purposes under State law, or, if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary, but does not include a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts; and

[(2) “nursing home administrator” means any individual who is charged with the general administration of a nursing home whether or not such individual has an ownership interest in such home and whether or not his functions and duties are shared with one or more other individuals.

#### [REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT

[SEC. 1908. (a) IN GENERAL.—The laws relating to medical child support, which a State is required to have in effect under section 1902(a)(60), are as follows:

[(1) 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—

[(A) the child was born out of wedlock,

[(B) the child is not claimed as a dependent on the parent’s Federal income tax return, or

[(C) the child does not reside with the parent or in the insurer’s service area.

[(2) 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—

[(A) 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);

[(B) 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

[(C) 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.

[(3) 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—

[(A) 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);

[(B) 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

[(C) not to disenroll (or eliminate coverage of) any such child unless—

[(i) the employer 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 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

[(D) 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.

[(4) 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.

[(5) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

[(A) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

[(B) 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

[(C) to make payment on claims submitted in accordance with subparagraph (B) directly to such custodial parent, the provider, or the State agency.

[(6) 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—

[(A) 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,

[(B) has received payment from a third party for the costs of such services to such child, but

[(C) 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.

[(b) DEFINITION.—For purposes of this section, 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.

**[CERTIFICATION AND APPROVAL OF OF RURAL HEALTH CLINICS AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED**

**[SEC. 1910. (a)(1)** Whenever the Secretary certifies a facility in a State to be qualified as a rural health clinic under title XVIII, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

**[(2)** The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any facility in that State which has applied for certification by him as a qualified rural health clinic.

**[(b)(1)** The Secretary may cancel approval of any intermediate care facility for the mentally retarded at any time if he finds on the basis of a determination made by him as provided in section 1902(a)(33)(B) that a facility fails to meet the requirements contained in section 1902(a)(31) or section 1905(d), or if he finds grounds for termination of his agreement with the facility pursuant to section 1866(b). In that event the Secretary shall notify the State agency and the intermediate care facility for the mentally retarded that approval of eligibility of the facility to participate in the programs established by this title and title XVIII shall be terminated at a time specified by the Secretary. The approval of eligibility of any such facility to participate in such programs may not be reinstated unless the Secretary finds that the reason for termination has been removed and there is reasonable assurance that it will not recur.

**[(2)** Any intermediate care facility for the mentally retarded which is dissatisfied with a determination by the Secretary that it no longer qualifies as a intermediate care facility for the mentally retarded for purposes of this title, shall be entitled to a hearing by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary’s final decision after such hearing as is provided in section 205(g), except that, in so applying such sections and in applying section 205(l) thereto, any reference

therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively. Any agreement between such facility and the State agency shall remain in effect until the period for filing a request for a hearing has expired or, if a request has been filed, until a decision has been made by the Secretary; except that the agreement shall not be extended if the Secretary makes a written determination, specifying the reasons therefor, that the continuation of provider status constitutes an immediate and serious threat to the health and safety of patients, and the Secretary certifies that the facility has been notified of its deficiencies and has failed to correct them.

#### 【INDIAN HEALTH SERVICE FACILITIES

【SEC. 1911. (a) A facility of the Indian Health Service (including a hospital, nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan), whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this title.

【(b) Notwithstanding subsection (a), a facility of the Indian Health Service (including a hospital, nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan) which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, but which submits to the Secretary within six months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first twelve months after the month in which such plan is submitted.

【(c) The Secretary is authorized to enter into agreements with the State agency for the purpose of reimbursing such agency for health care and services provided in Indian Health Service facilities to Indians who are eligible for medical assistance under the State plan.

#### 【ASSIGNMENT OF RIGHTS OF PAYMENT

【SEC. 1912. (a) 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 approved under this title, a State plan for medical assistance shall—

【(1) provide that, as a condition of eligibility for medical assistance under the State 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 this title 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 described in section 1902(l)(1)(A) or the individual is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; 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 agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; 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 State 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) 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.

#### [HOSPITAL PROVIDERS OF NURSING FACILITY SERVICES

[SEC. 1913. (a) Notwithstanding any other provision of this title, payment may be made, in accordance with this section, under a State plan approved under this title for nursing facility services furnished by a hospital which has in effect an agreement under section 1883 and which, with respect to the provision of such services, meets the requirements of subsections (b) through (d) of section 1919.

[(b)(1) Except as provided in paragraph (3), payment to any such hospital, for any nursing facility services furnished pursuant to subsection (a), shall be at a rate equal to the average rate per patient-day paid for routine services during the previous calendar

year under the State plan to nursing facilities, respectively, located in the State in which the hospital is located. The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

[(2) With respect to any period for which a hospital has an agreement under section 1883, in order to allocate routine costs between hospital and long-term care services, the total reimbursement for routine services due from all classes of long-term care patients (including title XVIII, title XIX, and private pay patients) shall be subtracted from the hospital total routine costs before calculations are made to determine reimbursement for routine hospital services under the State plan.

[(3) Payment to all such hospitals, for any nursing facility services furnished pursuant to subsection (a), may be made at a payment rate established by the State in accordance with the requirements of section 1902(a)(13)(A).

[WITHHOLDING OF FEDERAL SHARE OF PAYMENTS FOR CERTAIN  
MEDICARE PROVIDERS

[SEC. 1914. (a) The Secretary may adjust, in accordance with this section, the Federal matching payment to a State with respect to expenditures for medical assistance for care or services furnished in any quarter by—

[(1) an institution (A) which has or previously had in effect an agreement with the Secretary under section 1866; and (B)(i) from which the Secretary has been unable to recover overpayments made under title XVIII, or (ii) from which the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such institution under title XVIII; and

[(2) any person (A) who (i) has previously accepted payment on the basis of an assignment under section 1842(b)(3)(B)(ii), and (ii) during the annual period immediately preceding such quarter submitted no claims for payment under title XVIII, or submitted claims for payment under title XVIII which aggregated less than the amount of overpayments made to him, and (B)(i) from whom the Secretary has been unable to recover overpayments received in violation of the terms of such assignment, or (ii) from whom the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such person under title XVIII.

[(b) The Secretary may (subject to the remaining provisions of this section) reduce payment to a State under this title for any quarter by an amount equal to the lesser of the Federal matching share of payments to any institution or person specified in subsection (a), or the total overpayments to such institution or person under title XVIII, and may require the State to reduce its payment to such institution or person by such amount.

[(c) The Secretary shall not make any adjustment in the payment to a State, nor require any adjustment in the payment to an institution or person, pursuant to subsection (b) until after he has

provided adequate notice (which shall be not less than 60 days) to the State agency and the institution or person.

[(d) The Secretary shall by regulation provide procedures for implementation of this section, which procedures shall (1) determine the amount of the Federal payment to which the institution or person would otherwise be entitled under this section which shall be treated as a setoff against overpayments under title XVIII, and (2) assure the restoration to the institution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under title XVIII and to which the institution or person would otherwise be entitled under this title.

[(e) The Secretary shall restore to the trust funds established under sections 1817 and 1841, as appropriate, amounts recovered under this section as setoffs against overpayments under title XVIII.

[(f) Notwithstanding any other provision of this title, an institution or person shall not be entitled to recover from any State any amount in payment for medical care and services under this title which is withheld by the State agency pursuant to an order by the Secretary under subsection (b).

[PROVISIONS RESPECTING INAPPLICABILITY AND WAIVER OF CERTAIN  
REQUIREMENTS OF THIS TITLE

[SEC. 1915. (a) A State shall not be deemed to be out of compliance with the requirements of paragraphs (1), (10), or (23) of section 1902(a) solely by reason of the fact that the State (or any political subdivision thereof)—

[(1) has entered into—

[(A) a contract with an organization which has agreed to provide care and services in addition to those offered under the State plan to individuals eligible for medical assistance who reside in the geographic area served by such organization and who elect to obtain such care and services from such organization, or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic; or

[(B) arrangements through a competitive bidding process or otherwise for the purchase of laboratory services referred to in section 1905(a)(3) or medical devices if the Secretary has found that—

[(i) adequate services or devices will be available under such arrangements, and

[(ii) any such laboratory services will be provided only through laboratories—

[(I) which meet the applicable requirements of section 1861(e)(9) or paragraphs (15) and (16) of section 1861(s), and such additional requirements as the Secretary may require, and

[(II) no more than 75 percent of whose charges for such services are for services provided to individuals who are entitled to benefits under

this title or under part A or part B of title XVIII;  
or

[(2) restricts for a reasonable period of time the provider or providers from which an individual (eligible for medical assistance for items or services under the State plan) can receive such items or services, if—

[(A) the State has found, after notice and opportunity for a hearing (in accordance with procedures established by the State), that the individual has utilized such items or services at a frequency or amount not medically necessary (as determined in accordance with utilization guidelines established by the State), and

[(B) under such restriction, individuals eligible for medical assistance for such services have reasonable access (taking into account geographic location and reasonable travel time) to such services of adequate quality.

[(b) The Secretary, to the extent he finds it to be cost-effective and efficient and not inconsistent with the purposes of this title, may waive such requirements of section 1902 (other than subsection (s)) (other than sections 1902(a)(13)(E) and 1902(a)(10)(A) insofar as it requires provision of the care and services described in section 1905(a)(2)(C)) as may be necessary for a State—

[(1) to implement a primary care case-management system or a specialty physician services arrangement which restricts the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain medical care services (other than in emergency circumstances), if such restriction does not substantially impair access to such services of adequate quality where medically necessary,

[(2) to allow a locality to act as a central broker in assisting individuals (eligible for medical assistance under this title) in selecting among competing health care plans, if such restriction does not substantially impair access to services of adequate quality where medically necessary,

[(3) to share (through provision of additional services) with recipients of medical assistance under the State plan cost savings resulting from use by the recipient of more cost-effective medical care, and

[(4) to restrict the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain services (other than in emergency circumstances) to providers or practitioners who undertake to provide such services and who meet, accept, and comply with the reimbursement, quality, and utilization standards under the State plan, which standards shall be consistent with the requirements of section 1923 and are consistent with access, quality, and efficient and economic provision of covered care and services, if such restriction does not discriminate among classes of providers on grounds unrelated to their demonstrated effectiveness and efficiency in providing those services and if providers under such restriction are paid on a timely basis in the same manner as health care practitioners must be paid under section 1902(a)(37)(A).

No waiver under this subsection may restrict the choice of the individual in receiving services under section 1905(a)(4)(C).

[(c)(1) The Secretary may by waiver provide that a State plan approved under this title may include as “medical assistance” under such plan payment for part or all of the cost of home or community-based services (other than room and board) approved by the Secretary which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that but for the provision of such services the individuals would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the State plan. For purposes of this subsection, the term “room and board” shall not include an amount established under a method determined by the State to reflect the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.

[(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

[(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

[(B) the State will provide, with respect to individuals who—

[(i) are entitled to medical assistance for inpatient hospital services, nursing facility services, or services in an intermediate care facility for the mentally retarded under the State plan,

[(ii) may require such services, and

[(iii) may be eligible for such home or community-based care under such waiver,  
for an evaluation of the need for inpatient hospital services, nursing facility services, or services in an intermediate care facility for the mentally retarded;

[(C) such individuals who are determined to be likely to require the level of care provided in a hospital, nursing facility, or intermediate care facility for the mentally retarded are informed of the feasible alternatives, if available under the waiver, at the choice of such individuals, to the provision of inpatient hospital services, nursing facility services, or services in an intermediate care facility for the mentally retarded;

[(D) under such waiver the average per capita expenditure estimated by the State in any fiscal year for medical assistance provided with respect to such individuals does not exceed 100 percent of the average per capita expenditure that the State reasonably estimates would have been made in that fiscal year for expenditures under the State plan for such individuals if the waiver had not been granted; and

[(E) the State will provide to the Secretary annually, consistent with a data collection plan designed by the Secretary,

information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

[(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community). A waiver under this subsection shall be for an initial term of three years and, upon the request of a State, shall be extended for additional five-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met. A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under that waiver, that the maximum amount of the individual's income which may be disregarded for any month for the maintenance needs of the individual may be an amount greater than the maximum allowed for that purpose under regulations in effect on July 1, 1985.

[(4) A waiver granted under this subsection may, consistent with paragraph (2)—

[(A) limit the individuals provided benefits under such waiver to individuals with respect to whom the State has determined that there is a reasonable expectation that the amount of medical assistance provided with respect to the individual under such waiver will not exceed the amount of such medical assistance provided for such individual if the waiver did not apply, and

[(B) provide medical assistance to individuals (to the extent consistent with written plans of care, which are subject to the approval of the State) for case management services, homemaker/home health aide services and personal care services, adult day health services, habilitation services, respite care, and such other services requested by the State as the Secretary may approve and for day treatment or other partial hospitalization services, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness.

Except as provided under paragraph (2)(D), the Secretary may not restrict the number of hours or days of respite care in any period which a State may provide under a waiver under this subsection.

[(5) For purposes of paragraph (4)(B), the term "habilitation services", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded—

[(A) means services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings; and

[(B) includes (except as provided in subparagraph (C)) prevocational, educational, and supported employment services; but

[(C) does not include—

[(i) special education and related services (as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16), (17)) which otherwise are available to the individual through a local educational agency; and

[(ii) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).

[(6) The Secretary may not require, as a condition of approval of a waiver under this section under paragraph (2)(D), that the actual total expenditures for home and community-based services under the waiver (and a claim for Federal financial participation in expenditures for the services) cannot exceed the approved estimates for these services. The Secretary may not deny Federal financial payment with respect to services under such a waiver on the ground that, in order to comply with paragraph (2)(D), a State has failed to comply with such a requirement.

[(7)(A) In making estimates under paragraph (2)(D) in the case of a waiver that applies only to individuals with a particular illness or condition who are inpatients in, or who would require the level of care provided in, hospitals, nursing facilities, or intermediate care facilities for the mentally retarded, the State may determine the average per capita expenditure that would have been made in a fiscal year for those individuals under the State plan separately from the expenditures for other individuals who are inpatients in, or who would require the level of care provided in, those respective facilities.

[(B) In making estimates under paragraph (2)(D) in the case of a waiver that applies only to individuals with developmental disabilities who are inpatients in a nursing facility and whom the State has determined, on the basis of an evaluation under paragraph (2)(B), to need the level of services provided by an intermediate care facility for the mentally retarded, the State may determine the average per capita expenditures that would have been made in a fiscal year for those individuals under the State plan on the basis of the average per capita expenditures under the State plan for services to individuals who are inpatients in an intermediate care facility for the mentally retarded, without regard to the availability of beds for such inpatients.

[(C) In making estimates under paragraph (2)(D) in the case of a waiver to the extent that it applies to individuals with mental retardation or a related condition who are resident in an intermediate care facility for the mentally retarded the participation of which under the State plan is terminated, the State may determine the average per capita expenditures that would have been made in a fiscal year for those individuals without regard to any such termination.

[(8) The State agency administering the plan under this title may, whenever appropriate, enter into cooperative arrangements with the State agency responsible for administering the program for children with special health care needs under title V in order to assure improved access to coordinated services to meet the needs of such children.

[(9) In the case of any waiver under this subsection which contains a limit on the number of individuals who shall receive home or community-based services, the State may substitute additional individuals to receive such services to replace any individuals who die or become ineligible for services under the State plan.

[(10) The Secretary shall not limit to fewer than 200 the number of individuals in the State who may receive home and community-based services under a waiver under this subsection.

[(d)(1) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as "medical assistance" under such plan payment for part or all of the cost of home or community-based services (other than room and board) which are provided pursuant to a written plan of care to individuals 65 years of age or older with respect to whom there has been a determination that but for the provision of such services the individuals would be likely to require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan. For purposes of this subsection, the term "room and board" shall not include an amount established under a method determined by the State to reflect the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.

[(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

[(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

[(B) with respect to individuals 65 years of age or older who—

[(i) are entitled to medical assistance for skilled nursing or intermediate care facility services under the State plan,

[(ii) may require such services, and

[(iii) may be eligible for such home or community-based services under such waiver, the State will provide for an evaluation of the need for such skilled nursing facility or intermediate care facility services; and

[(C) such individuals who are determined to be likely to require the level of care provided in a skilled nursing facility or intermediate care facility are informed of the feasible alternatives to the provision of skilled nursing facility or intermediate care facility services, which such individuals may choose if available under the waiver.

Each State with a waiver under this subsection shall provide to the Secretary annually, consistent with a reasonable data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of



medical assistance provided under the State plan and on the health and welfare of recipients.

[(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community). Subject to a termination by the State (with notice to the Secretary) at any time, a waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional 5-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met. A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under the waiver, that the maximum amount of the individual's income which may be disregarded for any month is equal to the amount that may be allowed for that purpose under a waiver under subsection (c).

[(4) A waiver under this subsection may, consistent with paragraph (2), provide medical assistance to individuals for case management services, homemaker/home health aide services and personal care services, adult day health services, respite care, and other medical and social services that can contribute to the health and well-being of individuals and their ability to reside in a community-based care setting.

[(5)(A) In the case of a State having a waiver approved under this subsection, notwithstanding any other provision of section 1903 to the contrary, the total amount expended by the State for medical assistance with respect to skilled nursing facility services, intermediate care facility services, and home and community-based services under the State plan for individuals 65 years of age or older during a waiver year under this subsection may not exceed the projected amount determined under subparagraph (B).

[(B) For purposes of subparagraph (A), the projected amount under this subparagraph is the sum of the following:

[(i) The aggregate amount of the State's medical assistance under this title for skilled nursing facility services and intermediate care facility services furnished to individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years (rounded to the nearest quarter of a year) beginning after the base year and ending at the end of the waiver year involved or the sum of—

[(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the beginning of the base year and the beginning of the waiver year involved, plus

[(II) the percentage increase between the beginning of the base year and the beginning of the waiver year involved in the number of residents in the State who have attained the age of 65, plus

[(III) 2 percent for each year (rounded to the nearest quarter of a year) beginning after the base year and ending at the end of the waiver year.

[(ii) The aggregate amount of the State's medical assistance under this title for home and community-based services for individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years (rounded to the nearest quarter of a year) beginning after the base year and ending at the end of the waiver year involved or the sum of—

[(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the beginning of the base year and the beginning of the waiver year involved, plus

[(II) the percentage increase between the beginning of the base year and the beginning of the waiver year involved in the number of residents in the State who have attained the age of 65, plus

[(III) 2 percent for each year (rounded to the nearest quarter of a year) beginning after the base year and ending at the end of the waiver year.

[(iii) The Secretary shall develop and promulgate by regulation (by not later than October 1, 1989)—

[(I) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise both skilled nursing facility services and intermediate care facility services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (i)(I);

[(II) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise home and community-based services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (ii)(I); and

[(III) a method for projecting, on a State specific basis, the percentage increase in the number of residents in each State who are over 65 years of age for any period.

The Secretary shall develop (by not later than October 1, 1989) a method for projecting, on a State-specific basis, the percentage increase in the number of residents in each State who are over 75 years of age for any period. Effective on and after the date the Secretary promulgates the regulation under clause (iii), any reference in this subparagraph to the "lesser of 7 percent" shall be deemed to be a reference to the "greater of 7 percent".

[(iv) If there is enacted after December 22, 1987, an Act which amends this title whose provisions become effective on or after such date and which results in an increase in the aggregate amount of medical assistance under this title for nursing facility services and home and community-based services for individuals who have attained the age of 65 years, the Secretary, at the request of a State with a waiver under this subsection for a waiver year or years and in close consultation with the State, shall adjust the projected amount computed under this subparagraph for the waiver year or years to take into account such increase.

[(C) In this paragraph:

[(i) The term “home and community-based services” includes services described in sections 1905(a)(7) and 1905(a)(8), services described in subsection (c)(4)(B), services described in paragraph (4), and personal care services.

[(ii)(I) Subject to subclause (II), the term “base year” means the most recent year (ending before the date of the enactment of this subsection) for which actual final expenditures under this title have been reported to, and accepted by, the Secretary.

[(II) For purposes of subparagraph (C), in the case of a State that does not report expenditures on the basis of the age categories described in such subparagraph for a year ending before the date of the enactment of this subsection, the term “base year” means fiscal year 1989.

[(iii) The term “intermediate care facility services” does not include services furnished in an institution certified in accordance with section 1905(d).

[(6)(A) A determination by the Secretary to deny a request for a waiver (or extension of waiver) under this subsection shall be subject to review to the extent provided under section 1116(b).

[(B) Notwithstanding any other provision of this Act, if the Secretary denies a request of the State for an extension of a waiver under this subsection, any waiver under this subsection in effect on the date such request is made shall remain in effect for a period of not less than 90 days after the date on which the Secretary denies such request (or, if the State seeks review of such determination in accordance with subparagraph (A), the date on which a final determination is made with respect to such review).

[(e)(1)(A) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as “medical assistance” under such plan payment for part or all of the cost of nursing care, respite care, physicians’ services, prescribed drugs, medical devices and supplies, transportation services, and such other services requested by the State as the Secretary may approve which are provided pursuant to a written plan of care to a child described in subparagraph (B) with respect to whom there has been a determination that but for the provision of such services the infants would be likely to require the level of care provided in a hospital or nursing facility the cost of which could be reimbursed under the State plan.

[(B) Children described in this subparagraph are individuals under 5 years of age who—

[(i) at the time of birth were infected with (or tested positively for) the etiologic agent for acquired immune deficiency syndrome (AIDS),

[(ii) have such syndrome, or

[(iii) at the time of birth were dependent on heroin, cocaine, or phencyclidine,

and with respect to whom adoption or foster care assistance is (or will be) made available under part E of title IV.

[(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

[(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the

health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

[(B) under such waiver the average per capita expenditure estimated by the State in any fiscal year for medical assistance provided with respect to such individuals does not exceed 100 percent of the average per capita expenditure that the State reasonably estimates would have been made in that fiscal year for expenditures under the State plan for such individuals if the waiver had not been granted; and

[(C) the State will provide to the Secretary annually, consistent with a data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

[(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(B) (relating to comparability). A waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional five-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met.

[(4) The provisions of paragraph (6) of subsection (d) shall apply to this subsection in the same manner as it applies to subsection (d).

[(f)(1) The Secretary shall monitor the implementation of waivers granted under this section to assure that the requirements for such waiver are being met and shall, after notice and opportunity for a hearing, terminate any such waiver where he finds non-compliance has occurred.

[(2) A request to the Secretary from a State for approval of a proposed State plan or plan amendment or a waiver of a requirement of this title submitted by the State pursuant to a provision of this title shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State agency in writing with respect to any additional information which is needed in order to make a final determination with respect to the request. After the date the Secretary receives such additional information, the request shall be deemed granted unless the Secretary, within 90 days of such date, denies such request.

[(g)(1) A State may provide, as medical assistance, case management services under the plan without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B). The provision of case management services under this subsection shall not restrict the choice of the individual to receive medical assistance in violation of section 1902(a)(23). A State may limit the provision of case management services under this subsection to individuals with acquired immune deficiency syndrome (AIDS), or with AIDS-related conditions, or with either, or to individuals described in section 1902(z)(1)(A) and a State may limit the provision of case management services under this subsection to individuals with chronic

mental illness. The State may limit the case managers available with respect to case management services for eligible individuals with developmental disabilities or with chronic mental illness in order to ensure that the case managers for such individuals are capable of ensuring that such individuals receive needed services.

[(2) For purposes of this subsection, the term “case management services” means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

[(h) No waiver under this section (other than a waiver under subsection (c), (d), or (e)) may extend over a period of longer than two years unless the State requests continuation of such waiver, and such request shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State agency in writing with respect to any additional information which is needed in order to make a final determination with respect to the request. After the date the Secretary receives such additional information, the request shall be deemed granted unless the Secretary, within 90 day of such date, denies such request.

**[USE OF ENROLLMENT FEES, PREMIUMS, DEDUCTIONS, COST SHARING, AND SIMILAR CHARGES]**

**[SEC. 1916.** (a) The State plan shall provide that in the case of individuals described in subparagraph (A) or (E)(i) of section 1902(a)(10) who are eligible under the plan—

[(1) no enrollment fee, premium, or similar charge will be imposed under the plan (except for a premium imposed under subsection (c));

[(2) no deduction, cost sharing or similar charge will be imposed under the plan with respect to—

[(A) services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over),

[(B) services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy (or, at the option of the State, any services furnished to pregnant women),

[(C) services furnished to any individual who is an inpatient in a hospital, 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 State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs,

[(D) emergency services (as defined by the Secretary), family planning services and supplies described in section 1905(a)(4)(C), or services furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled, or

[(E) services furnished to an individual who is receiving hospice care (as defined in section 1905(o)); and

[(3) any deduction, cost sharing, or similar charge imposed under the plan with respect to other such individuals or other care and services will be nominal in amount (as determined by the Secretary in regulations which shall, if the definition of “nominal” under the regulations in effect on July 1, 1982 is changed, take into account the level of cash assistance provided in such State and such other criteria as the Secretary determines to be appropriate); except that a deduction, cost-sharing, or similar charge of up to twice the nominal amount established for outpatient services may be imposed by a State under a waiver granted by the Secretary for services received at a hospital emergency room if the services are not emergency services (referred to in paragraph (2)(D)) and the State has established to the satisfaction of the Secretary that individuals eligible for services under the plan have actually available and accessible to them alternative sources of nonemergency, outpatient services.

[(b) The State plan shall provide that in the case of individuals other than those described in subparagraph (A) or (E) of section 1902(a)(10) who are eligible under the plan—

[(1) there may be imposed an enrollment fee, premium, or similar charge, which (as determined in accordance with standards prescribed by the Secretary) is related to the individual's income,

[(2) no deduction, cost sharing, or similar charge will be imposed under the plan with respect to—

[(A) services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over),

[(B) services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy (or, at the option of the State, any services furnished to pregnant women),

[(C) services furnished to any individual who is an inpatient in a hospital, 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 State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs,

[(D) emergency services (as defined by the Secretary), family planning services and supplies described in section 1905(a)(4)(C), or (at the option of the State) services furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled, or

[(E) services furnished to an individual who is receiving hospice care (as defined in section 1905(o)); and

[(3) any deduction, cost sharing, or similar charge imposed under the plan with respect to other such individuals or other care and services will be nominal in amount (as determined by the Secretary in regulations which shall, if the definition of

“nominal” under the regulations in effect on July 1, 1982 is changed, take into account the level of cash assistance provided in such State and such other criteria as the Secretary determines to be appropriate); except that a deduction, cost-sharing, or similar charge of up to twice the nominal amount established for outpatient services may be imposed by a State under a waiver granted by the Secretary for services received at a hospital emergency room if the services are not emergency services (referred to in paragraph (2)(D)) and the State has established to the satisfaction of the Secretary that individuals eligible for services under the plan have actually available and accessible to them alternative sources of nonemergency, outpatient services.

[(c)(1) The State plan of a State may at the option of the State provide for imposing a monthly premium (in an amount that does not exceed the limit established under paragraph (2)) with respect to an individual described in subparagraph (A) or (B) of section 1902(l)(1) who is receiving medical assistance on the basis of section 1902(a)(10)(A)(ii)(IX) and whose family income (as determined in accordance with the methodology specified in section 1902(l)(3)) equals or exceeds 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

[(2) In no case may the amount of any premium imposed under paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of an individual exceeds 150 percent of the line described in paragraph (1).

[(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

[(4) A State may permit State or local funds available under other programs to be used for payment of a premium imposed under paragraph (1). Payment of a premium with such funds shall not be counted as income to the individual with respect to whom such payment is made.

[(d) With respect to a qualified disabled and working individual described in section 1905(s) whose income (as determined under paragraph (3) of that section) exceeds 150 percent of the official poverty line referred to in that paragraph, the State plan of a State may provide for the charging of a premium (expressed as a percentage of the medicare cost-sharing described in section 1905(p)(3)(A)(i) provided with respect to the individual) according to a sliding scale under which such percentage increases from 0 percent to 100 percent, in reasonable increments (as determined by the Secretary), as the individual's income increases from 150 percent of such poverty line to 200 percent of such poverty line.

[(e) The State plan shall require that no provider participating under the State plan may deny care or services to an individual eligible for such care or services under the plan on account of such individual's inability to pay a deduction, cost sharing, or similar charge. The requirements of this subsection shall not extinguish the liability of the individual to whom the care or services were furnished for payment of the deduction, cost sharing, or similar charge.

[(f) No deduction, cost sharing, or similar charge may be imposed under any waiver authority of the Secretary, except as provided in subsections (a)(3) and (b)(3), unless such waiver is for a demonstration project which the Secretary finds after public notice and opportunity for comment—

[(1) will test a unique and previously untested use of copayments,

[(2) is limited to a period of not more than two years,

[(3) will provide benefits to recipients of medical assistance which can reasonably be expected to be equivalent to the risks to the recipients,

[(4) is based on a reasonable hypothesis which the demonstration is designed to test in a methodologically sound manner, including the use of control groups of similar recipients of medical assistance in the area, and

[(5) is voluntary, or makes provision for assumption of liability for preventable damage to the health of recipients of medical assistance resulting from involuntary participation.

#### [LIENS, ADJUSTMENTS AND RECOVERIES, AND TRANSFERS OF ASSETS

[SEC. 1917. (a)(1) No lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf under the 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 State plan, to spend for costs of medical care all but a minimal amount of his 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 he cannot reasonably be expected to be discharged from the medical institution and to return home, except as provided in paragraph (2).

[(2) 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) 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.

[(b)(1) No adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan may be made, except that the State shall seek adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan in the case of the following individuals:

[(A) In the case of an individual described in subsection (a)(1)(B), the State shall seek adjustment or recovery from the individual's estate or upon sale of the property subject to a lien imposed on account of medical assistance paid on behalf of the individual.

[(B) In the case of an individual who was 55 years of age or older when the individual received such medical assistance, the State shall seek adjustment or recovery from the individual's estate, but only for medical assistance consisting of—

[(i) nursing facility services, home and community-based services, and related hospital and prescription drug services, or

[(ii) at the option of the State, any items or services under the State plan.

[(C)(i) In the case of an individual who has received (or is entitled to receive) benefits under a long-term care insurance policy in connection with which assets or resources are disregarded in the manner described in clause (ii), except as provided in such clause, the State shall seek adjustment or recovery from the individual's estate on account of medical assistance paid on behalf of the individual for nursing facility and other long-term care services.

[(ii) Clause (i) shall not apply in the case of an individual who received medical assistance under a State plan of a State which had a State plan amendment approved as of May 14, 1993, which provided for the disregard of any assets or resources—

[(I) to the extent that payments are made under a long-term care insurance policy; or

[(II) because an individual has received (or is entitled to receive) benefits under a long-term care insurance policy.

[(2) Any adjustment or recovery under paragraph (1) may be made only after the death of the individual's surviving spouse, if any, and only at a time—

[(A) when he has no surviving 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; and

[(B) in the case of a lien on an individual's home under subsection (a)(1)(B), when—

[(i) no sibling of the individual (who was residing in the individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution), and

[(ii) no son or daughter of the individual (who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the medical institution, and who establishes to the satisfaction of the State that he or she provided care to such individual which permitted such individual to reside at home rather than in an institution),

is lawfully residing in such home who has lawfully resided in such home on a continuous basis since the date of the individual's admission to the medical institution.

[(3) The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency shall waive the application of this subsection (other than paragraph (1)(C)) if such application would work an undue hardship as determined on the basis of criteria established by the Secretary.

[(4) For purposes of this subsection, the term "estate", with respect to a deceased individual—

[(A) shall include all real and personal property and other assets included within the individual's estate, as defined for purposes of State probate law; and

[(B) may include, at the option of the State (and shall include, in the case of an individual to whom paragraph (1)(C)(i) applies), any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

[(c)(1)(A) In order to meet the requirements of this subsection for purposes of section 1902(a)(18), the State plan must provide that if an institutionalized individual or the spouse of such an individual (or, at the option of a State, a noninstitutionalized individual or the spouse of such an individual) disposes of assets for less than fair market value on or after the look-back date specified in subparagraph (B)(i), the individual is ineligible for medical assistance for services described in subparagraph (C)(i) (or, in the case of a noninstitutionalized individual, for the services described in subparagraph (C)(ii)) during the period beginning on the date specified in subparagraph (D) and equal to the number of months specified in subparagraph (E).

[(B)(i) The look-back date specified in this subparagraph is a date that is 36 months (or, in the case of payments from a trust or portions of a trust that are treated as assets disposed of by the individual pursuant to paragraph (3)(A)(iii) or (3)(B)(ii) of subsection (d), 60 months) before the date specified in clause (ii).

[(ii) The date specified in this clause, with respect to—

[(I) an institutionalized individual is the first date as of which the individual both is an institutionalized individual and has applied for medical assistance under the State plan, or

[(II) a noninstitutionalized individual is the date on which the individual applies for medical assistance under the State plan or, if later, the date on which the individual disposes of assets for less than fair market value.

[(C)(i) The services described in this subparagraph with respect to an institutionalized individual are the following:

[(I) Nursing facility services.

[(II) A level of care in any institution equivalent to that of nursing facility services.

[(III) Home or community-based services furnished under a waiver granted under subsection (c) or (d) of section 1915.

[(ii) The services described in this subparagraph with respect to a noninstitutionalized individual are services (not including any services described in clause (i)) that are described in paragraph (7), (22), or (24) of section 1905(a), and, at the option of a State, other long-term care services for which medical assistance is otherwise available under the State plan to individuals requiring long-term care.

[(D) The date specified in this subparagraph is the first day of the first month during or after which assets have been transferred for less than fair market value and which does not occur in any other periods of ineligibility under this subsection.

[(E)(i) With respect to an institutionalized individual, the number of months of ineligibility under this subparagraph for an individual shall be equal to—

[(I) the total, cumulative uncompensated value of all assets transferred by the individual (or individual's spouse) on or after the look-back date specified in subparagraph (B)(i), divided by

[(II) the average monthly cost to a private patient of nursing facility services in the State (or, at the option of the State, in the community in which the individual is institutionalized) at the time of application.

[(ii) With respect to a noninstitutionalized individual, the number of months of ineligibility under this subparagraph for an individual shall not be greater than a number equal to—

[(I) the total, cumulative uncompensated value of all assets transferred by the individual (or individual's spouse) on or after the look-back date specified in subparagraph (B)(i), divided by

[(II) the average monthly cost to a private patient of nursing facility services in the State (or, at the option of the State, in the community in which the individual is institutionalized) at the time of application.

[(iii) The number of months of ineligibility otherwise determined under clause (i) or (ii) with respect to the disposal of an asset shall be reduced—

[(I) in the case of periods of ineligibility determined under clause (i), by the number of months of ineligibility applicable to the individual under clause (ii) as a result of such disposal, and

[(II) in the case of periods of ineligibility determined under clause (ii), by the number of months of ineligibility applicable to the individual under clause (i) as a result of such disposal.

[(2) An individual shall not be ineligible for medical assistance by reason of paragraph (1) to the extent that—

[(A) the assets transferred were a home and title to the home was transferred to—

[(i) the spouse of such individual;

[(ii) a child of such individual who (I) is under age 21, or (II) (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;

[(iii) 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 the individual becomes an institutionalized individual; or

[(iv) a son or daughter of such individual (other than a child described in clause (ii)) who was residing in such individual's home for a period of at least two years immediately before the date the individual becomes an institutionalized individual, and who (as determined by the State) provided care to such individual which permitted such individual to reside at home rather than in such an institution or facility;

[(B) the assets—

[(i) were transferred to the individual's spouse or to another for the sole benefit of the individual's spouse,

[(ii) were transferred from the individual's spouse to another for the sole benefit of the individual's spouse,

[(iii) were transferred to, or to a trust (including a trust described in subsection (d)(4)) established solely for the benefit of, the individual's child described in subparagraph (A)(ii)(II), or

[(iv) were transferred to a trust (including a trust described in subsection (d)(4)) established solely for the benefit of an individual under 65 years of age who is disabled (as defined in section 1614(a)(3));

[(C) a satisfactory showing is made to the State (in accordance with regulations promulgated by the Secretary) that (i) the individual intended to dispose of the assets either at fair market value, or for other valuable consideration, (ii) the assets were transferred exclusively for a purpose other than to qualify for medical assistance, or (iii) all assets transferred for less than fair market value have been returned to the individual; or

[(D) the State determines, under procedures established by the State (in accordance with standards specified by the Secretary), that the denial of eligibility would work an undue hardship as determined on the basis of criteria established by the Secretary;

[(3) For purposes of this subsection, in the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset (or the affected portion of such asset) shall be considered to be transferred by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such asset.

[(4) A State (including a State which has elected treatment under section 1902(f)) may not provide for any period of ineligibility for an individual due to transfer of resources for less than fair market value except in accordance with this subsection. In the case of a transfer by the spouse of an individual which results in a period of ineligibility for medical assistance under a State plan for such individual, a State shall, using a reasonable methodology (as specified by the Secretary), apportion such period of ineligibility (or any portion of such period) among the individual and the individual's spouse if the spouse otherwise becomes eligible for medical assistance under the State plan.

[(5) In this subsection, the term "resources" has the meaning given such term in section 1613, without regard to the exclusion described in subsection (a)(1) thereof.

[(d)(1) For purposes of determining an individual's eligibility for, or amount of, benefits under a State plan under this title, subject to paragraph (4), the rules specified in paragraph (3) shall apply to a trust established by such individual.

[(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if assets of the individual were used to form all or part of the corpus of the trust and if any of the following individuals established such trust other than by will:

[(i) The individual.

[(ii) The individual's spouse.

[(iii) A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse.

[(iv) A person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

[(B) In the case of a trust the corpus of which includes assets of an individual (as determined under subparagraph (A)) and assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

[(C) Subject to paragraph (4), this subsection shall apply without regard to—

[(i) the purposes for which a trust is established,

[(ii) whether the trustees have or exercise any discretion under the trust,

[(iii) any restrictions on when or whether distributions may be made from the trust, or

[(iv) any restrictions on the use of distributions from the trust.

[(3)(A) In the case of a revocable trust—

[(i) the corpus of the trust shall be considered resources available to the individual,

[(ii) payments from the trust to or for the benefit of the individual shall be considered income of the individual, and

[(iii) any other payments from the trust shall be considered assets disposed of by the individual for purposes of subsection (c).

[(B) In the case of an irrevocable trust—

[(i) if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the corpus from which, or the income on the corpus from which, payment to the individual could be made shall be considered resources available to the individual, and payments from that portion of the corpus or income—

[(I) to or for the benefit of the individual, shall be considered income of the individual, and

[(II) for any other purpose, shall be considered a transfer of assets by the individual subject to subsection (c); and

(ii) any portion of the trust from which, or any income on the corpus from which, no payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed) to be assets disposed of by the individual for purposes of subsection (c), and the value of the trust shall be determined for purposes of such subsection by including the amount of any payments made from such portion of the trust after such date.

[(4) This subsection shall not apply to any of the following trusts:

[(A) 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.

[(B) A trust established in a State for the benefit of an individual if—

[(i) the trust is composed only of pension, Social Security, and other income to the individual (and accumulated income in the trust),

[(ii) 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, and

[(iii) the State makes medical assistance available to individuals described in section 1902(a)(10)(A)(ii)(V), but does not make such assistance available to individuals for nursing facility services under section 1902(a)(10)(C).

[(C) A trust containing the assets of an individual who is disabled (as defined in section 1614(a)(3)) that meets the following conditions:

[(i) The trust is established and managed by a non-profit association.

[(ii) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.

[(iii) Accounts in the trust are established solely for the benefit of individuals who are disabled (as defined in section 1614(a)(3)) by the parent, grandparent, or legal guardian of such individuals, by such individuals, or by a court.

[(iv) To the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust pays to the State from such remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under the State plan under this title.

[(5) The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency waives the application of this subsection with respect to an individual if the individual establishes that such application would work an undue hardship on the individual as determined on the basis of criteria established by the Secretary.

[(6) The term "trust" includes any legal instrument or device that is similar to a trust but includes an annuity only to such extent and in such manner as the Secretary specifies.

[(e) In this section, the following definitions shall apply:

[(1) The term "assets", with respect to an individual, includes all income and resources of the individual and of the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to but does not receive because of action—

[(A) by the individual or such individual's spouse,

[(B) by a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or such individual's spouse, or

[(C) by any person, including any court or administrative body, acting at the direction or upon the request of the individual or such individual's spouse.

[(2) The term "income" has the meaning given such term in section 1612.

[(3) The term "institutionalized individual" means an individual who is an inpatient in a nursing facility, who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility, or who is described in section 1902(a)(10)(A)(ii)(VI).

[(4) The term "noninstitutionalized individual" means an individual receiving any of the services specified in subsection (c)(1)(C)(ii).

[(5) The term "resources" has the meaning given such term in section 1613, without regard (in the case of an institu-

tionalized individual) to the exclusion described in subsection (a)(1) of such section.

**[APPLICATION OF PROVISIONS OF TITLE II RELATING TO SUBPOENAS]**

**[SEC. 1918.** The provisions of subsections (d) and (e) of section 205 of this Act shall apply with respect to this title to the same extent as they are applicable with respect to title II, except that, in so applying such subsections, and in applying section 205(l) thereto, with respect to this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

**[REQUIREMENTS FOR NURSING FACILITIES]**

**[SEC. 1919.** (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 man-

ner 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 not later than 14 days after the date of) admission for each individual admitted on or after October 1, 1990, and by not later than October 1, 1991, for each resident of the facility on that date;

[(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.

[(F) REQUIREMENTS RELATING TO PREADMISSION SCREENING FOR MENTALLY ILL AND MENTALLY RETARDED INDIVIDUALS.—Except as provided in clauses (ii) and (iii) of subsection (e)(7)(A), a nursing facility must not admit, on or after January 1, 1989, any new resident who—

[(i) is mentally ill (as defined in subsection (e)(7)(G)(i)) unless the State mental health authority has determined (based on an independent physical and mental evaluation performed by a person or entity other than the State mental health authority) prior to admission that, because of the physical and mental condition of the individual, the individual requires the level of services provided by a nursing facility, and, if the individual requires such level of services, whether the individual requires specialized services for mental illness, or

[(ii) is mentally retarded (as defined in subsection (e)(7)(G)(ii)) unless the State mental retardation or developmental disability authority has determined prior

to admission that, because of the physical and mental condition of the individual, the individual requires the level of services provided by a nursing facility, and, if the individual requires such level of services, whether the individual requires specialized services for mental retardation.

A State mental health authority and a State mental retardation or developmental disability authority may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).

**[(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.—**With respect to nursing facility services provided on or after October 1, 1990, a nursing facility—

**[(I) except as provided in clause (ii), must provide 24-hour licensed nursing services which**

are sufficient to meet the nursing needs of its residents, and

[(II) except as provided in clause (ii), must use the services of a registered professional nurse for at least 8 consecutive hours a day, 7 days a week.

[(ii) WAIVER BY STATE.—To the extent that a facility is unable to meet the requirements of clause (i), a State may waive such requirements with respect to the facility if—

[(I) the facility demonstrates to the satisfaction of the State that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel,

[(II) the State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility,

[(III) the State finds that, for any such periods in which licensed nursing services are not available, a registered professional nurse or a physician is obligated to respond immediately to telephone calls from the facility,

[(IV) the State agency granting a waiver of such requirements provides notice of the waiver to the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and the mentally retarded, and

[(V) the nursing facility that is granted such a waiver by a State notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.

A waiver under this clause shall be subject to annual review and to the review of the Secretary and subject to clause (iii) shall be accepted by the Secretary for purposes of this title to the same extent as is the State's certification of the facility. In granting or renewing a waiver, a State may require the facility to use other qualified, licensed personnel.

[(iii) ASSUMPTION OF WAIVER AUTHORITY BY SECRETARY.—If the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements, the Secretary shall assume and exercise the authority of the State to grant waivers.

[(5) REQUIRED TRAINING OF NURSE AIDES.—

[(A) IN GENERAL.—(i) Except as provided in clause (ii), a nursing facility must not use on a full-time basis any individual as a nurse aide in the facility on or after October 1, 1990, 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 on or after January 1, 1991, 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 as of January 1, 1990, 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 by October 1, 1990.

[(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 convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed—

[(I) to ensure the physical safety of the resident or other residents, and

[(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary until such an order could reasonably be obtained).

[(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and

telephonic communications, visits, and meetings of family and of resident groups.

[(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records and to access to current clinical records of the resident upon request by the resident or the resident's legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.

[(v) ACCOMMODATION OF NEEDS.—The right—

[(I) to reside and receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

[(II) to receive notice before the room or roommate of the resident in the facility is changed.

[(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 nursing 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 (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 assist-

ance 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 1924(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 (including those specified under section 1902(a)(28)(B)) that are included in nursing facility services under the State plan and for which the resident may not be charged (except as permitted in section 1916), and of those other items and services that the facility offers and for which the resident may be charged and the amount of the charges for such items and services, and

[(II) of changes in the items and services described in subclause (I) and of changes in the charges imposed for items and services described in that subclause; and

[(iv) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of related charges for such services, including any charges for services not covered under title XVIII or by the facility's basic per diem charge.

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

[(C) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

[(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph



(2)) 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 im-

proves 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) for transfers or discharges effected on or after October 1, 1989, 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 in accordance with section 712 of the Act);

[(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 written 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 semiprivate room in the facility if, at the time of readmission, the resident requires the services provided by the facility.

[(E) Information respecting advance directives.—A nursing facility must comply with the requirement of section 1902(w) (relating to maintaining written policies and procedures respecting advance directives).

[(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-MEDICAID 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 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 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 entitled to 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 entitled to 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 the term “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 under title XIX 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.

[(C) ASSURANCE OF FINANCIAL SECURITY.—The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the Secretary, 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 MEDICAID-ELIGIBLE INDIVIDUALS.—

[(A) IN GENERAL.—A nursing facility may not impose charges, for certain medicaid-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 MEDICAID INDIVIDUALS DEFINED.—In subparagraph (A), the term "certain medicaid-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,  
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 must meet standards 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 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.—As a condition of approval of its plan under this title, a State must 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) by not later than January 1, 1989, 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) by not later than January 1, 1990, 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).

The failure of the Secretary to establish requirements under subsection (f)(2) shall not relieve any State of its responsibility under this paragraph.

[(2) NURSE AIDE REGISTRY.—

[(A) IN GENERAL.—By not later than January 1, 1989, 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, for transfers and discharges from nursing facilities effected on or after October 1, 1989, 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; but the failure of the Secretary to establish such guidelines under such subsection shall not relieve any State of its responsibility under this paragraph.



[(4) NURSING FACILITY ADMINISTRATOR STANDARDS.—By not later than July 1, 1989, the State must have implemented and enforced the nursing facility administrator standards developed under subsection (f)(4) respecting the qualification of administrators of nursing facilities.

[(5) SPECIFICATION OF RESIDENT ASSESSMENT INSTRUMENT.—Effective July 1, 1990, 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 MEDICAID RIGHTS.—Each State, as a condition of approval of its plan under this title, effective April 1, 1988, must 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.—Effective January 1, 1989, the State must have in effect a preadmission screening program, for making determinations (using any criteria developed under subsection (f)(8)) described in subsection (b)(3)(F) for mentally ill and mentally retarded individuals (as defined in subparagraph (G)) who are admitted to nursing facilities on or after January 1, 1989. The failure of the Secretary to develop minimum criteria under subsection (f)(8) shall not relieve any State of its responsibility to have a preadmission screening program under this subparagraph or to perform resident reviews under subparagraph (B).

[(ii) CLARIFICATION WITH RESPECT TO CERTAIN READMISSIONS.—The preadmission screening program under clause (i) need not provide for determinations in the case of the readmission to a nursing facility of an individual who, after being admitted to the nursing facility, was transferred for care in a hospital.

[(iii) EXCEPTION FOR CERTAIN HOSPITAL DISCHARGES.—The preadmission screening program under clause (i) shall not apply to the admission to a nursing facility of an individual—

[(I) who is admitted to the facility directly from a hospital after receiving acute inpatient care at the hospital,

[(II) who requires nursing facility services for the condition for which the individual received care in the hospital, and

[(III) whose attending physician has certified, before admission to the facility, that the individual is likely to require less than 30 days of nursing facility services.

[(B) STATE REQUIREMENT FOR ANNUAL RESIDENT REVIEW.—

[(i) FOR MENTALLY ILL RESIDENTS.—As of April 1, 1990, in the case of each resident of a nursing facility who is mentally ill, the State mental health authority must review and determine (using any criteria developed under subsection (f)(8) and based on an independent physical and mental evaluation performed by a person or entity other than the State mental health authority)—

[(I) whether or not the resident, because of the resident's physical and mental condition, requires the level of services provided by a nursing facility or requires the level of services of an inpatient psychiatric hospital for individuals under age 21 (as described in section 1905(h)) or of an institution for mental diseases providing medical assistance to individuals 65 years of age or older; and

[(II) whether or not the resident requires specialized services for mental illness.

[(ii) FOR MENTALLY RETARDED RESIDENTS.—As of April 1, 1990, in the case of each resident of a nursing facility who is mentally retarded, the State mental retardation or developmental disability authority must review and determine (using any criteria developed under subsection (f)(8))—

[(I) whether or not the resident, because of the resident's physical and mental condition, requires the level of services provided by a nursing facility or requires the level of services of an intermediate care facility described under section 1905(d); and

[(II) whether or not the resident requires specialized services for mental retardation.

[(iii) FREQUENCY OF REVIEWS.—

[(I) ANNUAL.—Except as provided in subclauses (II) and (III), the reviews and determinations under clauses (i) and (ii) must be conducted with respect to each mentally ill or mentally retarded resident not less often than annually.

[(II) PREADMISSION REVIEW CASES.—In the case of a resident subject to a preadmission review under subsection (b)(3)(F), the review and determination under clause (i) or (ii) need not be done until the resident has resided in the nursing facility for 1 year.

[(III) INITIAL REVIEW.—The reviews and determinations under clauses (i) and (ii) must first

be conducted (for each resident not subject to preadmission review under subsection (b)(3)(F)) by not later than April 1, 1990.

[(iv) PROHIBITION OF DELEGATION.—A State mental health authority, a State mental retardation or developmental disability authority, and a State may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).

[(C) RESPONSE TO PREADMISSION SCREENING AND RESIDENT REVIEW.—As of April 1, 1990, the State must meet the following requirements:

[(i) LONG-TERM RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES, BUT REQUIRING SPECIALIZED SERVICES.—In the case of a resident who is determined, under subparagraph (B), not to require the level of services provided by a nursing facility, but to require specialized services for mental illness or mental retardation, and who has continuously resided in a nursing facility for at least 30 months before the date of the determination, the State must, in consultation with the resident's family or legal representative and care-givers—

[(I) inform the resident of the institutional and noninstitutional alternatives covered under the State plan for the resident,

[(II) offer the resident the choice of remaining in the facility or of receiving covered services in an alternative appropriate institutional or non-institutional setting,

[(III) clarify the effect on eligibility for services under the State plan if the resident chooses to leave the facility (including its effect on readmission to the facility), and

[(IV) regardless of the resident's choice, provide for (or arrange for the provision of) such specialized services for the mental illness or mental retardation.

A State shall not be denied payment under this title for nursing facility services for a resident described in this clause because the resident does not require the level of services provided by such a facility, if the resident chooses to remain in such a facility.

[(ii) OTHER RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES, BUT REQUIRING SPECIALIZED SERVICES.—In the case of a resident who is determined, under subparagraph (B), not to require the level of services provided by a nursing facility, but to require specialized services for mental illness or mental retardation, and who has not continuously resided in a nursing facility for at least 30 months before the date of the determination, the State must, in consultation

with the resident's family or legal representative and care-givers—

[(I) arrange for the safe and orderly discharge of the resident from the facility, consistent with the requirements of subsection (c)(2),

[(II) prepare and orient the resident for such discharge, and

[(III) provide for (or arrange for the provision of) such specialized services for the mental illness or mental retardation.

[(iii) RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES AND NOT REQUIRING SPECIALIZED SERVICES.—In the case of a resident who is determined, under subparagraph (B), not to require the level of services provided by a nursing facility and not to require specialized services for mental illness or mental retardation, the State must—

[(I) arrange for the safe and orderly discharge of the resident from the facility, consistent with the requirements of subsection (c)(2), and

[(II) prepare and orient the resident for such discharge.

[(iv) ANNUAL REPORT.—Each State shall report to the Secretary annually concerning the number and disposition of residents described in each of clauses (ii) and (iii).

[(D) DENIAL OF PAYMENT.—

[(i) FOR FAILURE TO CONDUCT PREADMISSION SCREENING OR ANNUAL REVIEW.—No payment may be made under section 1903(a) with respect to nursing facility services furnished to an individual for whom a determination is required under subsection (b)(3)(F) or subparagraph (B) but for whom the determination is not made.

[(ii) FOR CERTAIN RESIDENTS NOT REQUIRING NURSING FACILITY LEVEL OF SERVICES.—No payment may be made under section 1903(a) with respect to nursing facility services furnished to an individual (other than an individual described in subparagraph (C)(i)) who does not require the level of services provided by a nursing facility.

[(E) PERMITTING ALTERNATIVE DISPOSITION PLANS.—

With respect to residents of a nursing facility who are mentally retarded or mentally ill and who are determined under subparagraph (B) not to require the level of services of such a facility, but who require specialized services for mental illness or mental retardation, a State and the nursing facility shall be considered to be in compliance with the requirements of subparagraphs (A) through (C) of this paragraph if, before April 1, 1989, the State and the Secretary have entered into an agreement relating to the disposition of such residents of the facility and the State is in compliance with such agreement. Such an agreement may provide for the disposition of the residents after the

date specified in subparagraph (C). The State may revise such an agreement, subject to the approval of the Secretary, before October 1, 1991, but only if, under the revised agreement, all residents subject to the agreement who do not require the level of services of such a facility are discharged from the facility by not later than April 1, 1994.

[(F) APPEALS PROCEDURES.—Each State, as a condition of approval of its plan under this title, effective January 1, 1989, must have in effect an appeals process for individuals adversely affected by determinations under subparagraph (A) or (B).

[(G) DEFINITIONS.—In this paragraph and in subsection (b)(3)(F):

[(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 (as described in section 1905(d)).

[(iii) The term “specialized services” has the meaning given such term by the Secretary in regulations, but does not include, in the case of a resident of a nursing facility, services within the scope of services which the facility must provide or arrange for its residents under subsection (b)(4).

[(f) RESPONSIBILITIES OF SECRETARY 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, by not later than September 1, 1988—

[(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 resi-

dents' 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 requirement relating to the areas to be covered in such a program, including at least basic nursing skills, personal care skills, recognition of mental health and social service needs, care of cognitively impaired residents, basic restorative services, and residents' rights, and procedures for determination of competency;

[(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 prorata 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), and of programs in effect on the date of the enactment of this section;

[(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) 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), clauses (i), (iii), or (iv) of subsection (h)(2)(A), clauses (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.

[(3) FEDERAL GUIDELINES FOR STATE APPEALS PROCESS FOR TRANSFERS AND DISCHARGES.—For purposes of subsections (c)(2)(B)(iii) and (e)(3), by not later than October 1, 1988, 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) SECRETARIAL STANDARDS QUALIFICATION OF ADMINISTRATORS.—For purposes of subsections (d)(1)(C) and (e)(4), the Secretary shall develop, by not later than March 1, 1988, standards to be applied in assuring the qualifications of administrators of nursing 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)** not later than January 1, 1989, 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)** by not later than April 1, 1990, 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.—**

**[(A) REGULATIONS REQUIRED.—**Pursuant to the requirement of section 21(b) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, the Secretary shall issue regulations, on or before the first day of the seventh month to begin after the date of enactment of this section, 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.

**[(B) RULE IF FAILURE TO PUBLISH REGULATIONS.—**If the Secretary does not issue the regulations under subparagraph (A) on or before the date required in that subparagraph, in the case of a resident of a nursing facility who is eligible to receive benefits for nursing facility services under this title, for purposes of section 1902(a)(28)(B), the Secretary shall be deemed to have promulgated regulations under this paragraph which provide that the costs which may not be charged to the personal funds of such resident (and for which payment is considered to be made under this title) include, at a minimum, the costs for routine personal hygiene items and services furnished by the facility.

**[(8) FEDERAL MINIMUM CRITERIA AND MONITORING FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—**

**[(A) MINIMUM CRITERIA.—**The Secretary shall develop, by not later than October 1, 1988, minimum criteria for States to use in making determinations under subsections (b)(3)(F) and (e)(7)(B) and in permitting individuals adversely affected to appeal such determinations, and shall notify the States of such criteria.

**[(B) MONITORING COMPLIANCE.—**The Secretary shall review, in a sufficient number of cases to allow reasonable inferences, each State's compliance with the requirements of subsection (e)(7)(C)(ii) (relating to discharge and placement for active treatment of certain residents).



[(9) CRITERIA FOR MONITORING STATE WAIVERS.—The Secretary shall develop, by not later than October 1, 1988, 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.

[(D) CONSTRUCTION.—The failure of the Secretary to issue regulations to carry out this subsection shall not relieve a State of its responsibility under this subsection.

[(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 a protocol which the Secretary has developed, tested, and validated by not later than January 1, 1990, and

[(ii) by individuals, of a survey team, who meet such minimum qualifications as the Secretary establishes by not later than such date.

The failure of the Secretary to develop, test, or validate such protocols or to establish such minimum qualifications shall not relieve any State of its responsibility (or the Secretary of the Secretary's responsibility) to conduct surveys under this subsection.

[(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 1903(a)(2)(D) 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 medicaid fraud and abuse control unit (established under section 1903(q)) 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 re-

quirement of subsection (b), (c), or (d), and further finds that the facility's deficiencies—

[(A) 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); or

[(B) 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)(ii), 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 subsections (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) DEADLINE AND GUIDANCE.—(i) Except as provided in clause (ii), as a condition for approval of a State plan for calendar quarters beginning on or after October 1, 1989, each State shall establish the remedies described in clauses (i) through (iv) of subparagraph (A) by not later than October 1, 1989. The Secretary shall provide, through regulations by not later than October 1, 1988, guidance to States in establishing such remedies; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedies.

[(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 non-compliance and correcting deficiencies as those described in subparagraph (A).

[(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 1903(a)(7), 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 1903(a)(7), 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 under this title.

**[(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).

**[(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 Secretary may take the following actions with respect to a finding that a facility has not met an applicable requirement:



[(i) DENIAL OF PAYMENT.—The Secretary may deny any further payments to the State 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.—The Secretary may impose a civil money penalty 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.—In consultation with the State, the Secretary may appoint 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 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) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the State or Secretary (or both, 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 State or Federal 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 medicaid 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.

#### [(PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN

[SEC. 1920. (a) A State plan approved under section 1902 may provide for making ambulatory prenatal care available to a pregnant woman during a presumptive eligibility period.

[(b) For purposes of this section—

[(1) the term “presumptive eligibility period” means, with respect to a pregnant woman, the period that—

[(A) begins with the date on which a qualified provider determines, on the basis of preliminary information, that the family income of the woman does not exceed the applicable income level of eligibility under the State plan, and

[(B) ends with (and includes) the earlier of—

[(i) the day on which a determination is made with respect to the eligibility of the woman for medical assistance under the State plan, or

[(ii) in the case of a woman who does not file an application by the last day of the month following the month during which the provider makes the determination referred to in subparagraph (A), such last day; and

[(2) the term “qualified provider” means any provider that—

[(A) is eligible for payments under a State plan approved under this title,

[(B) provides services of the type described in subparagraph (A) or (B) of section 1905(a)(2) or in section 1905(a)(9),

[(C) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A), and

[(D)(i) receives funds under—

[(I) section 329, 330, or 340 of the Public Health Service Act,

[(II) title V of this Act, or

[(III) title V of the Indian Health Care Improvement Act;

[(ii) participates in a program established under—

[(I) section 17 of the Child Nutrition Act of 1966, or

[(II) section 4(a) of the Agriculture and Consumer Protection Act of 1973;

[(iii) participates in a State perinatal program; or

[(iv) is the Indian Health Service or is a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638).

[(c)(1) The State agency shall provide qualified providers with—

[(A) such forms as are necessary for a pregnant woman to make application for medical assistance under the State plan, and

[(B) information on how to assist such women in completing and filing such forms.

[(2) A qualified provider that determines under subsection (b)(1)(A) that a pregnant woman is presumptively eligible for medical assistance under a State plan shall—

[(A) notify the State agency of the determination within 5 working days after the date on which determination is made, and

[(B) inform the woman at the time the determination is made that she is required to make application for medical assistance under the State plan by not later than the last day of the month following the month during which the determination is made.

[(3) A pregnant woman who is determined by a qualified provider to be presumptively eligible for medical assistance under a State plan shall make application for medical assistance under such plan by not later than the last day of the month following the month during which the determination is made, which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1)(A).

[(d) Notwithstanding any other provision of this title, ambulatory prenatal care that—

[(1) is furnished to a pregnant woman—

[(A) during a presumptive eligibility period,

[(B) by a provider that is eligible for payments under the State plan; and

[(2) is included in the care and services covered by a State plan;

shall be treated as medical assistance provided by such plan for purposes of section 1903.

**[INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS]**

**[SEC. 1921. (a) INFORMATION REPORTING REQUIREMENT.—**The requirement referred to in section 1902(a)(49) 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 ac-

cess 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 medicaid fraud control units (as defined in section 1903(q)),

[(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.

[CORRECTION AND REDUCTION PLANS FOR INTERMEDIATE CARE  
FACILITIES FOR THE MENTALLY RETARDED]

【SEC. 1922. (a) If the Secretary finds that an intermediate care facility for the mentally retarded has substantial deficiencies which do not pose an immediate threat to the health and safety of residents (including failure to provide active treatment), the State may elect, subject to the limitations in this section, to—

【(1) submit, within the number of days specified by the Secretary in regulations which apply to submission of compliance plans with respect to deficiencies of such type, a written plan of correction which details the extent of the facility's current compliance with the standards promulgated by the Secretary, including all deficiencies identified during a validation survey, and which provides for a timetable for completion of necessary steps to correct all staffing deficiencies within 6 months, and a timetable for rectifying all physical plant deficiencies within 6 months; or

【(2) submit, within a time period consisting of the number of days specified for submissions under paragraph (1) plus 35 days, a written plan for permanently reducing the number of certified beds, within a maximum of 36 months, in order to permit any noncomplying buildings (or distinct parts thereof) to be vacated and any staffing deficiencies to be corrected (hereinafter in this section referred to as a "reduction plan").

【(b) As conditions of approval of any reduction plan submitted pursuant to subsection (a)(2), the State must—

【(1) provide for a hearing to be held at the affected facility at least 35 days prior to submission of the reduction plan, with reasonable notice thereof to the staff and residents of the facility, responsible members of the residents' families, and the general public;

【(2) demonstrate that the State has successfully provided home and community services similar to the services proposed to be provided under the reduction plan for similar individuals eligible for medical assistance; and

【(3) provide assurances that the requirements of subsection (c) shall be met with respect to the reduction plan.

【(c) The reduction plan must—

【(1) identify the number and service needs of existing facility residents to be provided home or community services and the timetable for providing such services, in 6 month intervals, within the 36-month period;

【(2) describe the methods to be used to select such residents for home and community services and to develop the alternative home and community services to meet their needs effectively;

【(3) describe the necessary safeguards that will be applied to protect the health and welfare of the former residents of the facility who are to receive home or community services, including adequate standards for consumer and provider participation and assurances that applicable State licensure and applicable State and Federal certification requirements will be met in providing such home or community services;

[(4) provide that residents of the affected facility who are eligible for medical assistance while in the facility shall, at their option, be placed in another setting (or another part of the affected facility) so as to retain their eligibility for medical assistance;

[(5) specify the actions which will be taken to protect the health and safety of, and to provide active treatment for, the residents who remain in the affected facility while the reduction plan is in effect;

[(6) provide that the ratio of qualified staff to residents at the affected facility (or the part thereof) which is subject to the reduction plan will be the higher of—

[(A) the ratio which the Secretary determines is necessary in order to assure the health and safety of the residents of such facility (or part thereof); or

[(B) the ratio which was in effect at the time that the finding of substantial deficiencies (referred to in subsection (a)) was made; and

[(7) provide for the protection of the interests of employees affected by actions under the reduction plan, including—

[(A) arrangements to preserve employee rights and benefits;

[(B) training and retraining of such employees where necessary;

[(C) redeployment of such employees to community settings under the reduction plan; and

[(D) making maximum efforts to guarantee the employment of such employees (but this requirement shall not be construed to guarantee the employment of any employee).

[(d)(1) The Secretary must provide for a period of not less than 30 days after the submission of a reduction plan by a State, during which comments on such reduction plan may be submitted to the Secretary, before the Secretary approves or disapproves such reduction plan.

[(2) If the Secretary approves more than 15 reduction plans under this section in any fiscal year, any reduction plans approved in addition to the first 15 such plans approved, must be for a facility (or part thereof) for which the costs of correcting the substantial deficiencies (referred to in subsection (a)) are \$2,000,000 or greater (as demonstrated by the State to the satisfaction of the Secretary).

[(e)(1) If the Secretary, at the conclusion of the 6-month plan of correction described in subsection (a)(1), determines that the State has substantially failed to correct the deficiencies described in subsection (a), the Secretary may terminate the facility's provider agreement in accordance with the provisions of section 1910(b).

[(2) In the case of a reduction plan described in subsection (a)(2), if the Secretary determines, at the conclusion of the initial 6-month period or any 6-month interval thereafter, that the State has substantially failed to meet the requirements of subsection (c), the Secretary shall—

[(A) terminate the facility's provider agreement in accordance with the provisions of section 1910(b); or



[(B) if the State has failed to meet such requirements despite good faith efforts, disallow, for purposes of Federal financial participation, an amount equal to 5 percent of the cost of care for all eligible individuals in the facility for each month for which the State fails to meet such requirements.

[(f) The provisions of this section shall apply only to plans of correction and reduction plans approved by the Secretary by January 1, 1990.

**[ADJUSTMENT IN PAYMENT FOR INPATIENT HOSPITAL SERVICES  
FURNISHED BY DISPROPORTIONATE SHARE HOSPITALS]**

**[SEC. 1923. (a) IMPLEMENTATION OF REQUIREMENT.—**

[(1) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs), as of July 1, 1988, unless the State has submitted to the Secretary, by not later than such date, an amendment to such plan that—

[(A) specifically defines the hospitals so described (and includes in such definition any disproportionate share hospital described in subsection (b)(1) which meets the requirements of subsection (d)), and

[(B) provides, effective for inpatient hospital services provided not later than July 1, 1988, for an appropriate increase in the rate or amount of payment for such services provided by such hospitals, consistent with subsection (c).

[(2)(A) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1989, the State must submit to the Secretary by not later than April 1, 1989, the State plan amendment described in paragraph (1), consistent with subsection (c), effective for inpatient hospital services provided on or after July 1, 1989.

[(B) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1990, the State must submit to the Secretary by not later than April 1, 1990, the State plan amendment described in paragraph (1), consistent with subsections (c) and (f), effective for inpatient hospital services provided on or after July 1, 1990.

[(C) If a State plan under this title provides for payments for inpatient hospital services on a prospective basis (whether per diem, per case, or otherwise), in order for the plan to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1989, the State must submit to the Secretary by not later than April 1, 1989, a State plan amendment that provides, in the case of hospitals defined by the State as disproportionate share hospitals under paragraph (1)(A), for an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1989, involving exceptionally high costs or exceptionally long lengths of stay for individuals under one year of age.

[(3) The Secretary shall, not later than 90 days after the date a State submits an amendment under this subsection, review each such amendment for compliance with such require-

ment and by such date shall approve or disapprove each such amendment. If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement.

[(4) The requirement of this subsection may not be waived under section 1915(b)(4).

**[(b) HOSPITALS DEEMED DISPROPORTIONATE SHARE.—**

[(1) For purposes of subsection (a)(1), a hospital which meets the requirements of subsection (d) is deemed to be a disproportionate share hospital if—

[(A) the hospital's medicaid inpatient utilization rate (as defined in paragraph (2)) is at least one standard deviation above the mean medicaid inpatient utilization rate for hospitals receiving medicaid payments in the State; or

[(B) the hospital's low-income utilization rate (as defined in paragraph (3)) exceeds 25 percent.

[(2) For purposes of paragraph (1)(A), the term "medicaid inpatient utilization rate" means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of inpatient days attributable to patients who (for such days) were eligible for medical assistance under a State plan approved under this title in a period, and the denominator of which is the total number of the hospital's inpatient days in that period. In this paragraph, the term "inpatient day" includes each day in which 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.

[(3) For purposes of paragraph (1)(B), the term "low-income utilization rate" means, for a hospital, the sum of—

[(A) the fraction (expressed as a percentage)—

[(i) the numerator of which is the sum (for a period) of (I) the total revenues paid the hospital for patient services under a State plan under this title and (II) the amount of the cash subsidies for patient services received directly from State and local governments, and

[(ii) the denominator of which is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the period; and

[(B) a fraction (expressed as a percentage)—

[(i) the numerator of which is the total amount of the hospital's charges for inpatient hospital services which are attributable to charity care in a period, less the portion of any cash subsidies described in clause (i)(II) of subparagraph (A) in the period reasonably attributable to inpatient hospital services, and

[(ii) the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the hospital in the period.

The numerator under subparagraph (B)(i) shall not include contractual allowances and discounts (other than for indigent

patients not eligible for medical assistance under a State plan approved under this title).

[(4) The Secretary may not restrict a State's authority to designate hospitals as disproportionate share hospitals under this section. The previous sentence shall not be construed to affect the authority of the Secretary to reduce payments pursuant to section 1903(w)(1)(A)(iii) if the Secretary determines that, as a result of such designations, there is in effect a hold harmless provision described in section 1903(w)(4).

[(c) PAYMENT ADJUSTMENT.—Subject to subsections (f) and (g), in order to be consistent with this subsection, a payment adjustment for a disproportionate share hospital must either—

[(1) be in an amount equal to at least the product of (A) the amount paid under the State plan to the hospital for operating costs for inpatient hospital services (of the kind described in section 1886(a)(4)), and (B) the hospital's disproportionate share adjustment percentage (established under section 1886(d)(5)(F)(iv));

[(2) provide for a minimum specified additional payment amount (or increased percentage payment) and (without regard to whether the hospital is described in subparagraph (A) or (B) of subsection (b)(1)) for an increase in such a payment amount (or percentage payment) in proportion to the percentage by which the hospital's medicaid utilization rate (as defined in subsection (b)(2)) exceeds one standard deviation above the mean medicaid inpatient utilization rate for hospitals receiving medicaid payments in the State or the hospital's low-income utilization rate (as defined in paragraph (b)(3)); or

[(3) provide for a minimum specified additional payment amount (or increased percentage payment) that varies according to type of hospital under a methodology that—

[(A) applies equally to all hospitals of each type; and

[(B) results in an adjustment for each type of hospital that is reasonably related to the costs, volume, or proportion of services provided to patients eligible for medical assistance under a State plan approved under this title or to low-income patients.

except that, for purposes of paragraphs (1)(B) and (2)(A) of subsection (a), the payment adjustment for a disproportionate share hospital is consistent with this subsection if the appropriate increase in the rate or amount of payment is equal to at least one-third of the increase otherwise applicable under this subsection (in the case of such paragraph (1)(B)) and at least two-thirds of such increase (in the case of such paragraph (2)(A)). In the case of a hospital described in subsection (d)(2)(A)(i) (relating to children's hospitals), in computing the hospital's disproportionate share adjustment percentage for purposes of paragraph (1)(B) of this subsection, the disproportionate patient percentage (defined in section 1886(d)(5)(F)(vi)) shall be computed by substituting for the fraction described in subclause (I) of such section the fraction described in subclause (II) of that section. If a State elects in a State plan amendment under subsection (a) to provide the payment adjustment described in paragraph (2), the State must include in the amend-

ment a detailed description of the specific methodology to be used in determining the specified additional payment amount (or increased percentage payment) to be made to each hospital qualifying for such a payment adjustment and must publish at least annually the name of each hospital qualifying for such a payment adjustment and the amount of such payment adjustment made for each such hospital.

**[(d) REQUIREMENTS TO QUALIFY AS DISPROPORTIONATE SHARE HOSPITAL.—**

**[(1)** Except as provided in paragraph (2), no hospital may be defined or deemed as a disproportionate share hospital under a State plan under this title or under subsection (b) of this section unless the hospital has at least 2 obstetricians who have staff privileges at the hospital and who have agreed to provide obstetric services to individuals who are entitled to medical assistance for such services under such State plan.

**[(2)(A)** Paragraph (1) shall not apply to a hospital—

**[(i)** the inpatients of which are predominantly individuals under 18 years of age; or

**[(ii)** which does not offer nonemergency obstetric services to the general population as of the date of the enactment of this Act.

**[(B)** In the case of a hospital located in a rural area (as defined for purposes of section 1886), in paragraph (1) the term “obstetrician” includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

**[(3)** No hospital may be defined or deemed as a disproportionate share hospital under a State plan under this title or under subsection (b) or (e) of this section unless the hospital has a medicaid inpatient utilization rate (as defined in subsection (b)(2)) of not less than 1 percent.

**[(e) SPECIAL RULE.—(1)** A State plan shall be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs) without regard to the requirement of subsection (a) if (A)(i) the plan provided for payment adjustments based on a pooling arrangement involving a majority of the hospitals participating under the plan for disproportionate share hospitals as of January 1, 1984, or (ii) the plan as of January 1, 1987, provided for payment adjustments based on a statewide pooling arrangement involving all acute care hospitals and the arrangement provides for reimbursement of the total amount of uncompensated care provided by each participating hospital, (B) the aggregate amount of the payment adjustments under the plan for such hospitals is not less than the aggregate amount of such adjustments otherwise required to be made under such subsection, and (C) the plan meets the requirement of subsection (d)(3) and such payment adjustments are made consistent with the last sentence of subsection (c).

**[(2)** In the case of a State that used a health insuring organization before January 1, 1986, to administer a portion of its plan on a state-wide basis, beginning on July 1, 1988—

[(A) the requirements of subsections (b) and (c) (other than the last sentence of subsection (c)) shall not apply if the aggregate amount of the payment adjustments under the plan for disproportionate share hospitals (as defined under the State plan) is not less than the aggregate amount of payment adjustments otherwise required to be made if such subsections applied,

[(B) subsection (d)(2)(B) shall apply to hospitals located in urban areas, as well as in rural areas,

[(C) subsection (d)(3) shall apply, and

[(D) subsection (g) shall apply.

[(f) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR PAYMENTS IN EXCESS OF CERTAIN LIMITS.—

[(1) IN GENERAL.—

[(A) APPLICATION OF STATE-SPECIFIC LIMITS.—Except as provided in subparagraph (D), payment under section 1903(a) shall not be made with respect to any payment adjustment made under this section for hospitals in a State (as defined in paragraph (4)(B)) for quarters—

[(i) in fiscal year 1992 (beginning on or after January 1, 1992), unless—

[(I) the payment adjustments are made—

[(a) in accordance with the State plan in effect or amendments submitted to the Secretary by September 30, 1991,

[(b) in accordance with the State plan in effect or amendments submitted to the Secretary by November 26, 1991, or modification thereof, if the amendment designates only disproportionate share hospitals with a medicaid or low-income utilization percentage at or above the Statewide arithmetic mean, or

[(c) in accordance with a payment methodology which was established and in effect as of September 30, 1991, or in accordance with legislation or regulations enacted or adopted as of such date; or

[(II) the payment adjustments are the minimum adjustments required in order to meet the requirements of subsection (c)(1); or

[(ii) in a subsequent fiscal year, to the extent that the total of such payment adjustments exceeds the State disproportionate share hospital (in this subsection referred to as “DSH”) allotment for the year (as specified in paragraph (2)).

[(B) NATIONAL DSH PAYMENT LIMIT.—The national DSH payment limit for a fiscal year is equal to 12 percent of the total amount of expenditures under State plans under this title for medical assistance during the fiscal year.

[(C) PUBLICATION OF STATE DSH ALLOTMENTS AND NATIONAL DSH PAYMENT LIMIT.—Before the beginning of each fiscal year (beginning with fiscal year 1993), the Secretary

shall, consistent with section 1903(d), estimate and publish—

[(i) the national DSH payment limit for the fiscal year, and

[(ii) the State DSH allotment for each State for the year .

[(D) CONDITIONAL EXCEPTION FOR CERTAIN STATES.—

Subject to subparagraph (E), beginning with payments for quarters beginning on or after January 1, 1996, and at the option of a State, subparagraph (A) shall not apply in the case of a State which defines a hospital as a disproportionate share hospital under subsection (a)(1) only if the hospital meets any of the following requirements:

[(i) The hospital's medicaid inpatient utilization rate (as defined in subsection (b)(2)) is at or above the mean medicaid inpatient utilization rate for all hospitals in the State.

[(ii) The hospital's low-income utilization rate (as defined in subsection (b)(3)) is at or above the mean low-income utilization rate for all hospitals in the State.

[(iii) The number of inpatient days of the hospital attributable to patients who (for such days) were eligible for medical assistance under the State plan is equal to at least 1 percent of the total number of such days for all hospitals in the State.

[(iv) The hospital meets such alternative requirements as the Secretary may establish by regulation, taking into account the special circumstances of children's hospitals, hospitals located in rural areas, and sole community hospitals.

[(E) CONDITION FOR OPTION.—The option specified in subparagraph (D) shall not apply for payments for a quarter beginning before the date of enactment of legislation establishing a limit on payment adjustments under this section which would apply in the case of a state exercising such option.

[(2) DETERMINATION OF STATE DSH ALLOTMENTS.—

[(A) IN GENERAL.—Subject to subparagraph (B), the State DSH allotment for a fiscal year is equal to the State DSH allotment for the previous fiscal year (or, for fiscal year 1993, the State base allotment as defined in paragraph (4)(C)), increased by—

[(i) the State growth factor (as defined in paragraph (4)(E)) for the fiscal year, and

[(ii) the State supplemental amount for the fiscal year (as determined under paragraph (3)).

[(B) EXCEPTIONS.—

[(i) LIMIT TO 12 PERCENT OR BASE ALLOTMENT.—A State DSH allotment under subparagraph (A) for a fiscal year shall not exceed 12 percent of the total amount of expenditures under the State plan for medical assistance during the fiscal year, except that, in the case of a high DSH State (as defined in paragraph

(4)(A)), the State DSH allotment shall equal the State based allotment.

[(ii) EXCEPTION FOR MINIMUM REQUIRED ADJUSTMENT.—No State DSH allotment shall be less than the minimum amount of payment adjustments the State is required to make in the fiscal year to meet the requirements of subsection (c)(1).

[(3) STATE SUPPLEMENTAL AMOUNTS.—The Secretary shall determine a supplemental amount for each State that is not a high DSH State for a fiscal year as follows:

[(A) DETERMINATION OF REDISTRIBUTION POOL.—The Secretary shall subtract from the national DSH payment limit (specified in paragraph (1)(B)) for the fiscal year the following:

[(i) the total of the State base allotments for high DSH States;

[(ii) the total of State DSH allotments for the previous fiscal year (or, in the case of fiscal year 1993, the total of State base allotments) for all States other than high DSH States;

[(iii) the total of the State growth amounts for all States other than high DSH States for the fiscal year; and

[(iv) the total additions to State DSH allotments the Secretary estimates will be attributable to paragraph (2)(B)(ii).

[(B) DISTRIBUTION OF POOL BASED ON TOTAL MEDICAID EXPENDITURES FOR MEDICAL ASSISTANCE.—The supplemental amount for a State for a fiscal year is equal to the lesser of—

[(i) the product of the amount determined under subparagraph (A) and the ratio of—

[(I) the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year, to

[(II) the total amount of expenditures made under the State plans under this title for medical assistance during the fiscal year for all States which are not high DSH States in the fiscal year, or

[(ii) the amount that would raise the State DSH allotment to the maximum permitted under paragraph (2)(B).

[(4) DEFINITIONS.—In this subsection:

[(A) HIGH DSH STATE.—The term “high DSH State” means, for a fiscal year, a State for which the State base allotment exceeds 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year;

[(B) STATE.—The term “State” means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

[(C) STATE BASE ALLOTMENT.—The term “State base allotment” means, with respect to a State, the greater of—

[(i) the total amount of payment adjustments made under subsection (c) under the State plan during fiscal year 1992 (excluding any such payment adjustments for which a reduction may be made under paragraph (1)(A)(i)), or

[(ii) \$1,000,000.

The amount under clause (i) shall be determined by the Secretary and shall include only payment adjustments described in paragraph (1)(A)(i)(I).

[(D) STATE GROWTH AMOUNT.—The term “State growth amount” means, with respect to a State for a fiscal year, the lesser of—

[(i) the product of the State growth factor and the State DSH payment limit for the previous fiscal year, or

[(ii) the amount by which 12 percent of the total amount of expenditures made under the State plan under this title for medical assistance during the fiscal year exceeds the State DSH allotment for the previous fiscal year.

[(E) STATE GROWTH FACTOR.—The term “State growth factor” means, for a State for a fiscal year, the percentage by which the expenditures described in section 1903(a) in the State in the fiscal year exceed such expenditures in the previous fiscal year.

[(g) LIMIT ON AMOUNT OF PAYMENT TO HOSPITAL.—

[(1) AMOUNT OF ADJUSTMENT SUBJECT TO UNCOMPENSATED COSTS.—

[(A) IN GENERAL.—A payment adjustment during a fiscal year shall not be considered to be consistent with subsection (c) with respect to a hospital if the payment adjustment exceeds the costs incurred during the year of furnishing hospital services (as determined by the Secretary and net of payments under this title, other than under this section, and by uninsured patients) by the hospital to individuals who either are eligible for medical assistance under the State plan or have no health insurance (or other source of third party coverage) for services provided during the year. For purposes of the preceding sentence, payments made to a hospital for services provided to indigent patients made by a State or a unit of local government within a State shall not be considered to be a source of third party payment.

[(B) LIMIT TO PUBLIC HOSPITALS DURING TRANSITION PERIOD.—With respect to payment adjustments during a State fiscal year that begins before January 1, 1995, subparagraph (A) shall apply only to hospitals owned or operated by a State (or by an instrumentality or a unit of government within a State).

[(C) MODIFICATIONS FOR PRIVATE HOSPITALS.—With respect to hospitals that are not owned or operated by a State (or by an instrumentality or a unit of government



within a State), the Secretary may make such modifications to the manner in which the limitation on payment adjustments is applied to such hospitals as the Secretary considers appropriate.

**[(2) ADDITIONAL AMOUNT DURING TRANSITION PERIOD FOR CERTAIN HOSPITALS WITH HIGH DISPROPORTIONATE SHARE.—**

**[(A) IN GENERAL.—**In the case of a hospital with high disproportionate share (as defined in subparagraph (B)), a payment adjustment during a State fiscal year that begins before January 1, 1995, shall be considered consistent with subsection (c) if the payment adjustment does not exceed 200 percent of the costs of furnishing hospital services described in paragraph (1)(A) during the year, but only if the Governor of the State certifies to the satisfaction of the Secretary that the hospital's applicable minimum amount is used for health services during the year. In determining the amount that is used for such services during a year, there shall be excluded any amounts received under the Public Health Service Act, title V, title XVIII, or from third party payors (not including the State plan under this title) that are used for providing such services during the year.

**[(B) HOSPITALS WITH HIGH DISPROPORTIONATE SHARE DEFINED.—**In subparagraph (A), a hospital is a "hospital with high disproportionate share" if—

**[(i)** the hospital is owned or operated by a State (or by an instrumentality or a unit of government within a State); and

**[(ii)** the hospital—

**[(I)** meets the requirement described in subsection (b)(1)(A), or

**[(II)** has the largest number of inpatient days attributable to individuals entitled to benefits under the State plan of any hospital in such State for the previous State fiscal year.

**[(C) APPLICABLE MINIMUM AMOUNT DEFINED.—**In subparagraph (A), the "applicable minimum amount" for a hospital for a fiscal year is equal to the difference between the amount of the hospital's payment adjustment for the fiscal year and the costs to the hospital of furnishing hospital services described in paragraph (1)(A) during the fiscal year.

**[TREATMENT OF INCOME AND RESOURCES FOR CERTAIN INSTITUTIONALIZED SPOUSES**

**[SEC. 1924. (a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—**

**[(1) SUPERSEDES OTHER PROVISIONS.—**In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title (including sections 1902(a)(17) and 1902(f)) which is inconsistent with them.

**[(2) NO COMPARABLE TREATMENT REQUIRED.—**Any different treatment provided under this section for institutionalized

spouses shall not, by reason of paragraph (10) or (17) of section 1902(a), require such treatment for other individuals.

[(3) 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.

[(4) APPLICATION IN CERTAIN STATES AND TERRITORIES.—

[(A) APPLICATION IN STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

[(B) 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.

[(5) APPLICATION TO INDIVIDUALS RECEIVING SERVICES FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS.—This section applies to individuals receiving institutional or noninstitutional services from any organization receiving a frail elderly demonstration project waiver under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 or a waiver under section 603(c) of the Social Security Amendments of 1983.

[(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, one-half 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, one-half 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 (including sections 1902(a)(17) and 1917(d), 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, one-half 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, one-half 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), one-half of the income shall be considered to be available to the institutionalized spouse and one-half 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 (beginning on or after September 30, 1989) 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  $\frac{1}{2}$  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 (beginning on or after September 30, 1989) 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 benefits 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 benefits).

[(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 BENEFITS 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 benefits 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 section 1902(q)(1)), in an amount not less than the amount specified in section 1902(q)(2).

[(B) A community spouse monthly income allowance (as defined in paragraph (2)), 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  $\frac{1}{3}$  of the amount by which the amount described in paragraph (3)(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 section 1902(r)).

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) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—In this section (except as provided in paragraph (5)), the “community spouse monthly income allowance” for a community spouse is an amount by which—

[(A) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (3)) for the spouse, exceeds

[(B) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

[(3) 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 (C), is equal to or exceeds—

[(i) the applicable percent (described in subparagraph (B)) of  $\frac{1}{12}$  of the income official poverty line (defined by the Office of Management and Budget and re-

vised annually in accordance with section 673(2)) for a family unit of 2 members; plus

[(ii) an excess shelter allowance (as defined in paragraph (4)).

A revision of the official 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) APPLICABLE PERCENT.—For purposes of subparagraph (A)(i), the “applicable percent” described in this paragraph, effective as of—

[(i) September 30, 1989, is 122 percent,

[(ii) July 1, 1991, is 133 percent, and

[(iii) July 1, 1992, is 150 percent.

[(C) 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)).

[(4) EXCESS SHELTER ALLOWANCE DEFINED.—In paragraph (3)(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 (3)(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.

[(5) 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.

[(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 (de-

scribed 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 this subsection 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)(2)(B));

**[(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 described in section 1902(a)(3) 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 allowance in subsection (d)(2)(A), 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 section 1917(c)(1), 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, section 1917 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) The term “institutionalized spouse” means an individual who—

[(A) is in a medical institution or nursing facility or who (at the option of the State) is described in section 1902(a)(10)(A)(ii)(VI), 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) The term “community spouse” means the spouse of an institutionalized spouse.

[EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE

[SEC. 1925. (a) INITIAL 6-MONTH EXTENSION.—



[(1) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title must provide that each family which was receiving aid pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of, or income from, employment of the caretaker relative (as defined in subsection (e)) or because of section 402(a)(8)(B)(ii)(II) (providing for a time-limited earned income disregard), shall, subject to paragraph (3) and without any re-application for benefits under the plan, remain eligible for assistance under the plan approved under this title during the immediately succeeding 6-month period in accordance with this subsection.

[(2) NOTICE OF BENEFITS.—Each State, in the notice of termination of aid under part A of title IV sent to a family meeting the requirements of paragraph (1)—

[(A) shall notify the family of its right to extended medical assistance under this subsection and include in the notice a description of the reporting requirement of subsection (b)(2)(B)(i) and of the circumstances (described in paragraph (3)) under which such extension may be terminated; and

[(B) shall include a card or other evidence of the family's entitlement to assistance under this title for the period provided in this subsection.

[(3) TERMINATION OF EXTENSION.—

[(A) NO DEPENDENT CHILD.—Subject to subparagraphs (B) and (C), extension of assistance during the 6-month period described in paragraph (1) to a family shall terminate (during such period) at the close of the first month in which the family ceases to include a child, whether or not the child is (or would if needy be) a dependent child under part A of title IV.

[(B) NOTICE BEFORE TERMINATION.—No termination of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the termination.

[(C) CONTINUATION IN CERTAIN CASES UNTIL REDETERMINATION.—With respect to a child who would cease to receive medical assistance because of subparagraph (A) but who may be eligible for assistance under the State plan because the child is described in clause (i) of section 1905(a) or clause (i)(IV), (i)(VI) (i)(VII), or (ii)(IX) of section 1902(a)(10)(A), the State may not discontinue such assistance under such subparagraph until the State has determined that the child is not eligible for assistance under the plan.

[(4) SCOPE OF COVERAGE.—

[(A) IN GENERAL.—Subject to subparagraph (B), during the 6-month extension period under this subsection, the amount, duration, and scope of medical assistance made available with respect to a family shall be the same

as if the family were still receiving aid under the plan approved under part A of title IV.

[(B) STATE MEDICAID “WRAP-AROUND” OPTION.—A State, at its option, may pay a family’s expenses for premiums, deductibles, coinsurance, and similar costs for health insurance or other health coverage offered by an employer of the caretaker relative or by an employer of the absent parent of a dependent child. In the case of such coverage offered by an employer of the caretaker relative—

[(i) the State may require the caretaker relative, as a condition of extension of coverage under this subsection for the caretaker and the caretaker’s family, to make application for such employer coverage, but only if—

[(I) the caretaker relative is not required to make financial contributions for such coverage (whether through payroll deduction, payment of deductibles, coinsurance, or similar costs, or otherwise), and

[(II) the State provides, directly or otherwise, for payment of any of the premium amount, deductible, coinsurance, or similar expense that the employee is otherwise required to pay; and

[(ii) the State shall treat the coverage under such an employer plan as a third party liability (under section 1902(a)(25)).

Payments for premiums, deductibles, coinsurance, and similar expenses under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.

[(b) ADDITIONAL 6-MONTH EXTENSION.—

[(1) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title shall provide that the State shall offer to each family, which has received assistance during the entire 6-month period under subsection (a) and which meets the requirement of paragraph (2)(B)(i), in the last month of the period the option of extending coverage under this subsection for the succeeding 6-month period, subject to paragraph (3).

[(2) NOTICE AND REPORTING REQUIREMENTS.—

[(A) NOTICES.—

[(i) NOTICE DURING INITIAL EXTENSION PERIOD OF OPTION AND REQUIREMENTS.—Each State, during the 3rd and 6th month of any extended assistance furnished to a family under subsection (a), shall notify the family of the family’s option for additional extended assistance under this subsection. Each such notice shall include (I) in the 3rd month notice, a statement of the reporting requirement under subparagraph (B)(i), and, in the 6th month notice, a statement of the reporting requirement under subparagraph (B)(ii), (II) a statement as to whether any premiums are required for such additional extended assistance, and (III) a description of other out-of-pocket expenses,

benefits, reporting and payment procedures, and any pre-existing condition limitations, waiting periods, or other coverage limitations imposed under any alternative coverage options offered under paragraph (4)(D). The 6th month notice under this subparagraph shall describe the amount of any premium required of a particular family for each of the first 3 months of additional extended assistance under this subsection.

[(ii) NOTICE DURING ADDITIONAL EXTENSION PERIOD OF REPORTING REQUIREMENTS AND PREMIUMS.—Each State, during the 3rd month of any additional extended assistance furnished to a family under this subsection, shall notify the family of the reporting requirement under subparagraph (B)(ii) and a statement of the amount of any premium required for such extended assistance for the succeeding 3 months.

[(B) REPORTING REQUIREMENTS.—

[(i) DURING INITIAL EXTENSION PERIOD.—Each State shall require (as a condition for additional extended assistance under this subsection) that a family receiving extended assistance under subsection (a) report to the State, not later than the 21st day of the 4th month in the period of extended assistance under subsection (a), on the family's gross monthly earnings and on the family's costs for such child care as is necessary for the employment of the caretaker relative in each of the first 3 months of that period. A State may permit such additional extended assistance under this subsection notwithstanding a failure to report under this clause if the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis.

[(ii) DURING ADDITIONAL EXTENSION PERIOD.—Each State shall require that a family receiving extended assistance under this subsection report to the State, not later than the 21st day of the 1st month and of the 4th month in the period of additional extended assistance under this subsection, on the family's gross monthly earnings and on the family's costs for such child care as is necessary for the employment of the caretaker relative in each of the 3 preceding months.

[(iii) CLARIFICATION ON FREQUENCY OF REPORTING.—A State may not require that a family receiving extended assistance under this subsection or subsection (a) report more frequently than as required under clause (i) or (ii).

[(3) TERMINATION OF EXTENSION.—

[(A) IN GENERAL.—Subject to subparagraphs (B) and (C), extension of assistance during the 6-month period described in paragraph (1) to a family shall terminate (during the period) as follows:

[(i) NO DEPENDENT CHILD.—The extension shall terminate at the close of the first month in which the

family ceases to include a child, whether or not the child is (or would if needy be) a dependent child under part A of title IV.

[(ii) FAILURE TO PAY ANY PREMIUM.—If the family fails to pay any premium for a month under paragraph (5) by the 21st day of the following month, the extension shall terminate at the close of that following month, unless the family has established, to the satisfaction of the State, good cause for the failure to pay such premium on a timely basis.

[(iii) QUARTERLY INCOME REPORTING AND TEST.—The extension under this subsection shall terminate at the close of the 1st or 4th month of the 6-month period if—

[(I) the family fails to report to the State, by the 21st day of such month, the information required under paragraph (2)(B)(ii), unless the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis;

[(II) the caretaker relative had no earnings in one or more of the previous 3 months, unless such lack of any earnings was due to an involuntary loss of employment, illness, or other good cause, established to the satisfaction of the State; or

[(III) the State determines that the family's average gross monthly earnings (less such costs for such child care as is necessary for the employment of the caretaker relative) during the immediately preceding 3-month period exceed 185 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

Information described in clause (iii)(I) shall be subject to the restrictions on use and disclosure of information provided under section 402(a)(9). Instead of terminating a family's extension under clause (iii)(I), a State, at its option, may provide for suspension of the extension until the month after the month in which the family reports information required under paragraph (2)(B)(ii), but only if the family's extension has not otherwise been terminated under subclause (II) or (III) of clause (iii). The State shall make determinations under clause (iii)(III) for a family each time a report under paragraph (2)(B)(ii) for the family is received.

[(B) NOTICE BEFORE TERMINATION.—No termination of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the termination, which notice shall include (in the case of termination under subparagraph (A)(iii)(II), relating to no continued earnings) a description of how the family may reestablish eligibility for medical assistance

under the State plan. No such termination shall be effective earlier than 10 days after the date of mailing of such notice.

**[(C) CONTINUATION IN CERTAIN CASES UNTIL REDETERMINATION.—**

**[(i) DEPENDENT CHILDREN.—**With respect to a child who would cease to receive medical assistance because of subparagraph (A)(i) but who may be eligible for assistance under the State plan because the child is described in clause (i) of section 1905(a) or clause (i)(IV) (i)(VI) (i)(VII),, or (ii)(IX) of section 1902(a)(10)(A), the State may not discontinue such assistance under such subparagraph until the State has determined that the child is not eligible for assistance under the plan.

**[(ii) MEDICALLY NEEDY.—**With respect to an individual who would cease to receive medical assistance because of clause (ii) or (iii) of subparagraph (A) but who may be eligible for assistance under the State plan because the individual is within a category of person for which medical assistance under the State plan is available under section 1902(a)(10)(C) (relating to medically needy individuals), the State may not discontinue such assistance under such subparagraph until the State has determined that the individual is not eligible for assistance under the plan.

**[(4) COVERAGE.—**

**[(A) IN GENERAL.—**During the extension period under this subsection—

**[(i)** the State plan shall offer to each family medical assistance which (subject to subparagraphs (B) and (C)) is the same amount, duration, and scope as would be made available to the family if it were still receiving aid under the plan approved under part A of title IV; and

**[(ii)** the State plan may offer alternative coverage described in subparagraph (D).

**[(B) ELIMINATION OF MOST NON-ACUTE CARE BENEFITS.—**At a State's option and notwithstanding any other provision of this title, a State may choose not to provide medical assistance under this subsection with respect to any (or all) of the items and services described in paragraphs (4)(A), (6), (7), (8), (11), (13), (14), (15), (16), (18), (20), and (21) of section 1905(a).

**[(C) STATE MEDICAID “WRAP-AROUND” OPTION.—**At a State's option, the State may elect to apply the option described in subsection (a)(4)(B) (relating to “wrap-around” coverage) for families electing medical assistance under this subsection in the same manner as such option applies to families provided extended eligibility for medical assistance under subsection (a).

**[(D) ALTERNATIVE ASSISTANCE.—**At a State's option, the State may offer families a choice of health care coverage under one or more of the following, instead of the

medical assistance otherwise made available under this subsection:

[(i) ENROLLMENT IN FAMILY OPTION OF EMPLOYER PLAN.—Enrollment of the caretaker relative and dependent children in a family option of the group health plan offered to the caretaker relative.

[(ii) ENROLLMENT IN FAMILY OPTION OF STATE EMPLOYEE PLAN.—Enrollment of the caretaker relative and dependent children in a family option within the options of the group health plan or plans offered by the State to State employees.

[(iii) ENROLLMENT IN STATE UNINSURED PLAN.—Enrollment of the caretaker relative and dependent children in a basic State health plan offered by the State to individuals in the State (or areas of the State) otherwise unable to obtain health insurance coverage.

[(iv) ENROLLMENT IN HMO.—Enrollment of the caretaker relative and dependent children in a health maintenance organization (as defined in section 1903(m)(1)(A)) less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through a health maintenance organization in accordance with section 1903(m).

If a State elects to offer an option to enroll a family under this subparagraph, the State shall pay any premiums and other costs for such enrollment imposed on the family and may pay deductibles and coinsurance imposed on the family. A State's payment of premiums for the enrollment of families under this subparagraph (not including any premiums otherwise payable by an employer and less the amount of premiums collected from such families under paragraph (5)) and payment of any deductibles and coinsurance shall be considered, for purposes of section 1903(a)(1), to be payments for medical assistance.

[(E) PROHIBITION ON COST-SHARING FOR MATERNITY AND PREVENTIVE PEDIATRIC CARE.—

[(i) IN GENERAL.—If a State offers any alternative option under subparagraph (D) for families, under each such option the State must assure that care described in clause (ii) is available without charge to the families through—

[(I) payment of any deductibles, coinsurance, and other cost-sharing respecting such care, or

[(II) providing coverage under the State plan for such care without any cost-sharing, or any combination of such mechanisms.

[(ii) CARE DESCRIBED.—The care described in this clause consists of—

[(I) services related to pregnancy (including prenatal, delivery, and post partum services), and

[(II) ambulatory preventive pediatric care (including ambulatory early and periodic screening, diagnosis, and treatment services under section 1905(a)(4)(B)) for each child who meets the age and date of birth requirements to be a qualified child under section 1905(n)(2).

[(5) PREMIUM.—

[(A) PERMITTED.—Notwithstanding any other provision of this title (including section 1916), a State may impose a premium for a family for additional extended coverage under this subsection for a premium payment period (as defined in subparagraph (D)(i)), but only if the family's average gross monthly earnings (less the average monthly costs for such child care as is necessary for the employment of the caretaker relative) for the premium base period exceed 100 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

[(B) LEVEL MAY VARY BY OPTION OFFERED.—The level of such premium may vary, for the same family, for each option offered by a State under paragraph (4)(D).

[(C) LIMIT ON PREMIUM.—In no case may the amount of any premium under this paragraph for a family for a month in either of the premium payment periods described in subparagraph (D)(i) exceed 3 percent of the family's average gross monthly earnings (less the average monthly costs for such child care as is necessary for the employment of the caretaker relative) during the premium base period (as defined in subparagraph (D)(ii)).

[(D) DEFINITIONS.—In this paragraph:

[(i) A “premium payment period” described in this clause is a 3-month period beginning with the 1st or 4th month of the 6-month additional extension period provided under this subsection.

[(ii) The term “premium base period” means, with respect to a particular premium payment period, the period of 3 consecutive months the last of which is 4 months before the beginning of that premium payment period.

[(c) APPLICABILITY IN STATES AND TERRITORIES.—

[(1) STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115(a), the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

[(2) INAPPLICABILITY IN COMMONWEALTHS AND TERRITORIES.—The provisions of this section shall only apply to the 50 States and the District of Columbia.

[(d) GENERAL DISQUALIFICATION FOR FRAUD.—

[(1) INELIGIBILITY FOR AID.—This section shall not apply to an individual who is a member of a family which has received aid under part A of title IV if the State makes a finding that, at any time during the last 6 months in which the family was receiving such aid before otherwise being provided extended eligibility under this section, the individual was ineligible for such aid because of fraud.

[(2) GENERAL DISQUALIFICATIONS.—For additional provisions relating to fraud and program abuse, see sections 1128, 1128A, and 1128B.

[(e) CARETAKER RELATIVE DEFINED.—In this section, the term “caretaker relative” has the meaning of such term as used in part A of title IV.

[(f) SUNSET.—This section shall not apply with respect to families that cease to be eligible for aid under part A of title IV after September 30, 1998.

[ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES

[SEC. 1926. (a)(1) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to obstetrical services (as defined in paragraph (4)(A)), as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State’s compliance with such requirement, including data relating to how rates established for payments to health maintenance organizations under section 1903(m) take into account such payment rates.

[(2) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to pediatric services (as defined in paragraph (4)(B)), as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies, by pediatric procedure, the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State’s compliance with such requirement, including data relating to how rates established for payments to health maintenance organizations under section 1903(m) take into account such payment rates.

[(3) The Secretary, by not later than 90 days after the date of submission of a plan amendment under paragraph (1) or (2), shall—

[(A) review each such amendment for compliance with the requirement of section 1902(a)(30)(A), and

[(B) approve or disapprove each such amendment.

If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement.

[(4) In this section:



[(A) The term “obstetrical services” means services relating to pregnancy covered under the State plan provided by an obstetrician, obstetrician-gynecologist, family practitioner, certified nurse midwife, or certified family nurse practitioner and does not include inpatient or outpatient hospital services or other institutional services.

[(B) The term “pediatric services” means services covered under the State plan provided by a pediatrician, family practitioner, or certified pediatric nurse practitioner to children under 18 years of age and does not include inpatient or outpatient hospital services or other institutional services.

[(b) For amendments submitted under subsection (a)(1) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the statewide average payment rates under the State plan for obstetrical services furnished by obstetricians, obstetrician-gynecologists, family practitioners, certified family nurse practitioners, and certified nurse midwives, by procedure. Such information shall be provided separately for providers located in each metropolitan statistical area (or similar area) in the State and in the remainder of the State.

[(c) For amendments submitted under subsection (a)(2) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the statewide average payment rates under the State plan for pediatric services furnished by pediatricians, family practitioners, and certified pediatric nurse practitioners by procedure. Such information shall be provided separately for providers located in each metropolitan statistical area (or similar area) in the State and in the remainder of the State.

[(d) Nothing in this title (including section 1902(a)(30)(A)) shall be construed as preventing a State from establishing payment levels for obstetrical or pediatric services that are higher for those services furnished in rural areas than those furnished in metropolitan statistical areas.

**[SEC. 1927. (a) REQUIREMENT FOR REBATE AGREEMENT.—**

[(1) IN GENERAL.—In order for payment to be available under section 1903(a) for covered outpatient drugs of a manufacturer, the manufacturer must have entered into and have in effect a rebate agreement described in subsection (b) with the Secretary, on behalf of States (except that, the Secretary may authorize a State to enter directly into agreements with a manufacturer), and must meet the requirements of paragraph (5) (with respect to 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) and paragraph (6). Any agreement between a State and a manufacturer prior to April 1, 1991, shall be deemed to have been entered into on January 1, 1991, and payment to such manufacturer shall be retroactively calculated as if the agreement between the manufacturer and the State had been entered into on January 1, 1991. If a manufacturer has not entered into such an agreement before March 1, 1991, such an agreement, subsequently entered into, shall not be effective until the first day of the calendar quarter that begins more than 60 days after the date the agreement is entered into.

[(2) EFFECTIVE DATE.—Paragraph (1) shall first apply to drugs dispensed under this title on or after January 1, 1991.

[(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1), and section 1903(i)(10)(A), shall not apply to the dispensing of a single source drug or innovator multiple source drug if (A)(i) the State has made a determination that the availability of the drug is essential to the health of beneficiaries under the State plan for medical assistance; (ii) such drug has been given a rating of 1-A by the Food and Drug Administration; and (iii)(I) the physician has obtained approval for use of the drug in advance of its dispensing in accordance with a prior authorization program described in subsection (d), or (II) the Secretary has reviewed and approved the State's determination under subparagraph (A); or (B) the Secretary determines that in the first calendar quarter of 1991, there were extenuating circumstances.

[(4) EFFECT ON EXISTING AGREEMENTS.—In the case of a rebate agreement in effect between a State and a manufacturer on the date of the enactment of this section, such agreement, for the initial agreement period specified therein, shall be considered to be a rebate agreement in compliance with this section with respect to that State, if the State agrees to report to the Secretary any rebates paid pursuant to the agreement and such agreement provides for a minimum aggregate rebate of 10 percent of the State's total expenditures under the State plan for coverage of the manufacturer's drugs under this title. If, after the initial agreement period, the State establishes to the satisfaction of the Secretary that an agreement in effect on the date of the enactment of this section provides for rebates that are at least as large as the rebates otherwise required under this section, and the State agrees to report any rebates under the agreement to the Secretary, the agreement shall be considered to be a rebate agreement in compliance with the section for the renewal periods of such agreement.

[(5) LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.—

[(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of this paragraph.

[(B) COVERED ENTITY DEFINED.—In this subsection, the term "covered entity" means an entity described in section 340B(a)(4) of the Public Health Service Act.

[(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) ENTITIES.—Each covered entity shall inform the single State agency under section 1902(a)(5) when it is seeking reimbursement from the State plan for medical assistance described in section 1905(a)(12) with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

[(ii) STATE AGENCY.—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 of this paragraph, 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 this paragraph.

[(6) REQUIREMENTS RELATING TO MASTER AGREEMENTS FOR DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS AND CERTAIN OTHER FEDERAL AGENCIES.—

[(A) IN GENERAL.—A manufacturer meets the requirements of this paragraph if the manufacturer complies 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.

[(B) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether a master agreement described in subparagraph (A) meets the requirements of section 8126 of title 38, United States Code, 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.

[(C) 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 8126 of title 38, United States Code (as in effect immediately after the enactment of this paragraph) 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 this paragraph.

[(b) TERMS OF REBATE AGREEMENT.—

[(1) PERIODIC REBATES.—

[(A) IN GENERAL.—A rebate agreement under this subsection shall require the manufacturer to provide, to each State plan approved under this title, a rebate for a rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed after December 31, 1990, for which payment was made under the State 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.

[(B) OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State under this section (or under an agreement authorized by the Secretary under subsection (a)(1) or an agreement described in subsection (a)(4)) in any quarter shall be considered to be a reduction in the amount expended under the State plan in the quarter for medical assistance for purposes of section 1903(a)(1).

[(2) STATE PROVISION OF INFORMATION.—

[(A) STATE RESPONSIBILITY.—Each State agency under this title 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 dispensed after December 31, 1990, for which payment was made under the plan during 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 with an agreement in effect 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 (beginning on or after January 1, 1991), on the average manufacturer price (as defined in subsection (k)(1)) and, (for single source drugs and innovator multiple source drugs), the manufacturer's best price (as defined in subsection (c)(2)(B)) for covered outpatient drugs 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 (k)(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 \$100,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information about charges or prices by the Secretary in connection with a survey under this subparagraph or knowingly provides false information. 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 with an agreement under this section that fails to provide information required under subparagraph (A) on a timely basis, the amount of the penalty shall be increased by \$10,000 for each day in which such information has not been provided and such amount shall be paid to the Treasury, and, 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 with an agreement under this section that knowingly provides false information is subject to a civil money penalty in an amount not to exceed \$100,000 for each item of false information. Such civil money penalties are 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 subsection (a)(6)(A)(ii) is confidential and shall not be disclosed by the Secretary or the Secretary of Veterans Affairs or a State agency (or contractor there-

with) in a form which discloses the identity of a specific manufacturer or wholesaler, 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.—A rebate agreement shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

[(B) TERMINATION.—

[(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement 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.

[(ii) BY A MANUFACTURER.—A manufacturer may terminate a 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 agreements described in section 340B(a)(1) of the Public Health Service Act and 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.

[(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 for a rebate period (as defined in subsection (k)(8)) 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) subject to subparagraph (B)(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)(i)) of such average manufacturer price,

of or the rebate period.

[(B) RANGE OF REBATES REQUIRED.—

[(i) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the “minimum rebate percentage” for rebate periods beginning—

[(I) after December 31, 1990, and before October 1, 1992, is 12.5 percent;

[(II) after September 30, 1992, and before January 1, 1994, is 15.7 percent;

[(III) after December 31, 1993, and before January 1, 1995, is 15.4 percent;

[(IV) after December 31, 1994, and before January 1, 1996, is 15.2 percent; and

[(V) after December 31, 1995, is 15.1 percent.

[(ii) TEMPORARY LIMITATION ON MAXIMUM REBATE AMOUNT.—In no case shall the amount applied under subparagraph (A)(ii) for a rebate period beginning—

[(I) before January 1, 1992, exceed 25 percent of the average manufacturer price; or

[(II) after December 31, 1991, and before January 1, 1993, exceed 50 percent of the average manufacturer price.

[(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 subsection (a)(5)(B);

[(II) any prices charged under the Federal Supply Schedule of the General Services Administration;

[(III) any prices used under a State pharmaceutical assistance program; and

[(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

[(ii) SPECIAL RULES.—The term “best price”—

[(I) shall be inclusive of cash discounts, free goods that are contingent on any purchase requirement, volume discounts, and rebates (other than rebates under this section);

[(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package; and

[(III) shall not take into account prices that are merely nominal in amount.

[(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

[(A) IN GENERAL.—The amount of the rebate specified in this subsection 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, 1900, 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 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” for rebate periods beginning—

**[(i)** before January 1, 1994, is 10 percent, and

**[(ii)** after December 31, 1993, is 11 percent.

**[(d) LIMITATIONS ON COVERAGE OF DRUGS.—**

**[(1) PERMISSIBLE RESTRICTIONS.—**(A) A State may subject to prior authorization any covered outpatient drug. Any such prior authorization program shall comply with the requirements of paragraph (5).

**[(B)** A State may exclude or otherwise restrict coverage of a covered outpatient drug if—

**[(i)** the prescribed use is not for a medically accepted indication (as defined in subsection (k)(6));

**[(ii)** the drug is contained in the list referred to in paragraph (2);

**[(iii)** the drug is subject to such restrictions pursuant to an agreement between a manufacturer and a State authorized by the Secretary under subsection (a)(1) or in effect pursuant to subsection (a)(4); or

**[(iv)** the State has excluded coverage of the drug from its formulary established in accordance with paragraph (4).

**[(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—**The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted:

**[(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) UPDATE OF 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, based on data collected by surveillance and utilization review programs of State medical assistance programs, to be subject to clinical abuse or inappropriate use.

[(4) REQUIREMENTS FOR FORMULARIES.—A State 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 (or, at the option of the State, the State's drug use review board established under subsection (g)(3)).

[(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with an 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 (k)(6)), 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)) pursuant to a prior authorization program that is consistent with paragraph (5).

[(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.

[(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—A State plan under this title 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, with respect to drugs dispensed on or after July 1, 1991, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (k)(6)) 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 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

[(6) OTHER PERMISSIBLE RESTRICTIONS.—A State 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) TREATMENT OF PHARMACY REIMBURSEMENT LIMITS.—

[(1) IN GENERAL.—During the period beginning on January 1, 1991, and ending on December 31, 1994—

[(A) a State may not reduce the payment limits established by regulation under this title or any limitation described in paragraph (3) with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug below the limits in effect as of January 1, 1991, and

[(B) except as provided in paragraph (2), the Secretary may not modify by regulation the formula established under sections 447.331 through 447.334 of title 42, Code of Federal Regulations, in effect on November 5, 1990, to reduce the limits described in subparagraph (A).

[(2) SPECIAL RULE.—If a State is not in compliance with the regulations described in paragraph (1)(B), paragraph (1)(A) shall not apply to such State until such State is in compliance with such regulations.

[(3) EFFECT ON STATE MAXIMUM ALLOWABLE COST LIMITATIONS.—This section shall not supersede or affect provisions in effect prior to January 1, 1991, or after December 31, 1994, relating to any maximum allowable cost limitation established by a State for payment by the State for covered outpatient drugs, and rebates shall be made under this section without regard to whether or not payment by the State for such drugs is subject to such a limitation or the amount of such a limitation.

[(4) ESTABLISHMENT OF UPPER PAYMENT LIMITS.—HCFA shall establish a Federal upper reimbursement limit for each multiple source drug for which the FDA has rated three or more products therapeutically and pharmaceutically equivalent, regardless of whether all such additional formulations are rated as such and shall use only such formulations when determining any such upper limit.

[(g) DRUG USE REVIEW.—

[(1) IN GENERAL.—

[(A) In order to meet the requirement of section 1903(i)(10)(B), a State shall provide, by not later than January 1, 1993, for a drug use review program described in paragraph (2) for covered outpatient drugs in order to assure that prescriptions (i) are appropriate, (ii) are medically necessary, and (iii) are not likely to result in adverse medical results. The program shall be designed 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 including education on therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse.

[(B) The program shall assess data on drug use against predetermined standards, consistent with the following:

[(i) compendia which shall consist of the following:

[(I) American Hospital Formulary Service Drug Information;

[(II) United States Pharmacopeia-Drug Information; and

[(III) American Medical Association Drug Evaluations; and

[(ii) the peer-reviewed medical literature.

[(C) The Secretary, under the procedures established in section 1903, shall pay to each State an amount equal to 75 per centum of so much of the sums expended by the State plan during calendar years 1991 through 1993 as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of this subsection.

[(D) States shall not be required to perform additional drug use reviews with respect to drugs dispensed to residents of nursing facilities which are in compliance with the drug regimen review procedures prescribed by the Secretary for such facilities in regulations implementing section 1919, currently at section 483.60 of title 42, Code of Federal Regulations.

[(2) DESCRIPTION OF PROGRAM.—Each drug use review program shall meet the following requirements for covered outpatient drugs:

[(A) PROSPECTIVE DRUG REVIEW.—(i) The State plan shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title, typically at the point-of-sale or

point of distribution. The review shall include screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse. Each State shall use the compendia and literature referred to in paragraph (1)(B) as its source of standards for such review.

[(ii) As part of the State's prospective drug use review program under this subparagraph applicable State law shall establish standards for counseling of individuals receiving benefits under this title by pharmacists which includes at least the following:

[(I) The pharmacist must offer to discuss with each individual receiving benefits under this title or caregiver of such individual (in person, whenever practicable, or through access to a telephone service which is toll-free for long-distance calls) who presents a prescription, matters which in the exercise of the pharmacist's professional judgment (consistent with State law respecting the provision of such information), the pharmacist deems significant including the following:

[(aa) The name and description of the medication.

[(bb) The route, dosage form, dosage, route of administration, and duration of drug therapy.

[(cc) Special directions and precautions for preparation, administration and use by the patient.

[(dd) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

[(ee) Techniques for self-monitoring drug therapy.

[(ff) Proper storage.

[(gg) Prescription refill information.

[(hh) Action to be taken in the event of a missed dose.

[(II) A reasonable effort must be made by the pharmacist to obtain, record, and maintain at least the following information regarding individuals receiving benefits under this title:

[(aa) Name, address, telephone number, date of birth (or age) and gender.

[(bb) Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

[(cc) Pharmacist comments relevant to the individual's drug therapy.

Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when an individual re-

ceiving benefits under this title or caregiver of such individual refuses such consultation.

[(B) RETROSPECTIVE DRUG USE REVIEW.—The program shall provide, through its mechanized drug claims processing and information retrieval systems (approved by the Secretary under section 1903(r)) or otherwise, for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and individuals receiving benefits under this title, or associated with specific drugs or groups of drugs.

[(C) APPLICATION OF STANDARDS.—The program shall, on an ongoing basis, assess data on drug use against explicit predetermined standards (using the compendia and literature referred to in subsection (1)(B) as the source of standards for such assessment) including but not limited to monitoring for therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, and clinical abuse/misuse and, as necessary, introduce remedial strategies, in order to improve the quality of care and to conserve program funds or personal expenditures.

[(D) EDUCATIONAL PROGRAM.—The program shall, through its State drug use review board established under paragraph (3), either directly or through contracts with accredited health care educational institutions, State medical societies or State pharmacists associations/societies or other organizations as specified by the State, and using data provided by the State drug use review board on common drug therapy problems, provide for active and ongoing educational outreach programs (including the activities described in paragraph (3)(C)(iii) of this subsection) to educate practitioners on common drug therapy problems with the aim of improving prescribing or dispensing practices.

[(3) STATE DRUG USE REVIEW BOARD.—

[(A) ESTABLISHMENT.—Each State shall provide for the establishment of a drug use review board (hereinafter referred to as the “DUR Board”) either directly or through a contract with a private organization.

[(B) MEMBERSHIP.—The membership of the DUR Board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:

[(i) The clinically appropriate prescribing of covered outpatient drugs.

[(ii) The clinically appropriate dispensing and monitoring of covered outpatient drugs.

[(iii) Drug use review, evaluation, and intervention.

[(iv) Medical quality assurance.

The membership of the DUR Board shall be made up at least  $\frac{1}{3}$  but no more than 51 percent licensed and actively practicing physicians and at least  $\frac{1}{3}$  licensed and actively practicing pharmacists.

[(C) ACTIVITIES.—The activities of the DUR Board shall include but not be limited to the following:

[(i) Retrospective DUR as defined in section (2)(B).

[(ii) Application of standards as defined in section (2)(C).

[(iii) Ongoing interventions for physicians and pharmacists, targeted toward therapy problems or individuals identified in the course of retrospective drug use reviews performed under this subsection. Intervention programs shall include, in appropriate instances, at least:

[(I) information dissemination sufficient to ensure the ready availability to physicians and pharmacists in the State of information concerning its duties, powers, and basis for its standards;

[(II) written, oral, or electronic reminders containing patient-specific or drug-specific (or both) information and suggested changes in prescribing or dispensing practices, communicated in a manner designed to ensure the privacy of patient-related information;

[(III) use of face-to-face discussions between health care professionals who are experts in rational drug therapy and selected prescribers and pharmacists who have been targeted for educational intervention, including discussion of optimal prescribing, dispensing, or pharmacy care practices, and follow-up face-to-face discussions; and

[(IV) intensified review or monitoring of selected prescribers or dispensers.

The Board shall re-evaluate interventions after an appropriate period of time to determine if the intervention improved the quality of drug therapy, to evaluate the success of the interventions and make modifications as necessary.

[(D) ANNUAL REPORT.—Each State shall require the DUR Board to prepare a report on an annual basis. The State shall submit a report on an annual basis to the Secretary which shall include a description of the activities of the Board, including the nature and scope of the prospective and retrospective drug use review programs, a summary of the interventions used, an assessment of the impact of these educational interventions on quality of care, and an estimate of the cost savings generated as a result of such program. The Secretary shall utilize such report in evaluating the effectiveness of each State's drug use review program.

[(h) ELECTRONIC CLAIMS MANAGEMENT.—

[(1) IN GENERAL.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State agency to establish, as its principal means of processing claims for covered outpatient drugs under this title, 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.

[(2) ENCOURAGEMENT.—In order to carry out paragraph (1)—

[(A) for calendar quarters during fiscal years 1991 and 1992, expenditures under the State plan attributable to development of a system described in paragraph (1) shall receive Federal financial participation under section 1903(a)(3)(A)(i) (at a matching rate of 90 percent) if the State acquires, through applicable competitive procurement process in the State, the most cost-effective telecommunications network and automatic data processing services and equipment; and

[(B) the Secretary may permit, in the procurement described in subparagraph (A) in the application of part 433 of title 42, Code of Federal Regulations, and parts 95, 205, and 307 of title 45, Code of Federal Regulations, the substitution of the State's request for proposal in competitive procurement for advance planning and implementation documents otherwise required.

[(i) 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, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives a report on the 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) how the size of such rebates compare with the size or rebates offered to other purchasers of covered outpatient drugs;

[(D) the effect of inflation on the value of rebates required under this section;

[(E) trends in prices paid under this title for covered outpatient drugs; and

[(F) Federal and State administrative costs associated with compliance with the provisions of this title.

[(j) EXEMPTION OF ORGANIZED HEALTH CARE SETTINGS.—(1) Covered outpatient drugs dispensed by Health Maintenance Organizations, including those organizations that contract under section 1903(m), are not subject to the requirements of this section.



[(2) The State plan shall provide that a hospital (providing medical assistance under such plan) that dispenses covered outpatient drugs using drug formulary systems, and bills the plan no more than the hospital's purchasing costs for covered outpatient drugs (as determined under the State plan) shall not be subject to the requirements of this section.

[(3) Nothing in this subsection shall be construed as providing that amounts for covered outpatient drugs paid by the institutions described in this subsection should not be taken into account for purposes of determining the best price as described in subsection (c).

[(k) 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 1905(a)(12), a drug which may be dispensed only upon prescription (except as provided in paragraph (5)), and—

[(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such 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; and

[(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; and

[(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

[(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 this title 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.

Such term also does not include any such drug or product for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used for a medical indication which is not a medically accepted indication. Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price (as defined in subsection (c)(1)(C)) for such drug, biological product, or insulin.

[(4) NONPRESCRIPTION DRUGS.—If a State plan for medical assistance under this title includes coverage of prescribed drugs as described in section 1905(a)(12) and permits coverage of drugs which may be sold without a prescription (commonly referred to as “over-the-counter” drugs), if they are prescribed by a physician (or other person authorized to prescribe under State law), such a drug shall be regarded as a covered outpatient drug.

[(5) MANUFACTURER.—The term “manufacturer” means any entity which is engaged in—

[(A) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

[(B) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products. Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

[(6) 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 compendia described in subsection (g)(1)(B)(i).

[(7) 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 (5)) 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 approved by the Food and Drug Administration.

[(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term “noninnovator multiple source drug” means a multiple source drug that is not an innovator multiple source drug.

[(iv) SINGLE SOURCE DRUG.—The term “single source drug” means a covered outpatient drug which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application.

[(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, provided that the listed product is generally available to the public through retail pharmacies in that State.

[(8) 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.

[(9) STATE AGENCY.—The term “State agency” means the agency designated under section 1902(a)(5) to administer or supervise the administration of the State plan for medical assistance.

#### [PROGRAM FOR DISTRIBUTION OF PEDIATRIC VACCINES

##### [SEC. 1928. (a) ESTABLISHMENT OF PROGRAM.—

[(1) IN GENERAL.—In order to meet the requirement of section 1902(a)(62), each State shall establish a pediatric vaccine distribution program (which may be administered by the State department of health), consistent with the requirements of this section, under which—

[(A) each vaccine-eligible child (as defined in subsection (b)), in receiving an immunization with a qualified pediatric vaccine (as defined in subsection (h)(8)) from a program-registered provider (as defined in subsection (c)) on or after October 1, 1994, is entitled to receive the immunization without charge for the cost of such vaccine; and

[(B)(i) each program-registered provider who administers such a pediatric vaccine to a vaccine-eligible child on or after such date is entitled to receive such vaccine under the program without charge either for the vaccine or its delivery to the provider, and (ii) no vaccine is distributed under the program to a provider unless the provider is a program-registered provider.

##### [(2) DELIVERY OF SUFFICIENT QUANTITIES OF PEDIATRIC VACCINES TO IMMUNIZE FEDERALLY VACCINE-ELIGIBLE CHILDREN.—

[(A) IN GENERAL.—The Secretary shall provide under subsection (d) for the purchase and delivery on behalf of each State meeting the requirement of section 1902(a)(62) (or, with respect to vaccines administered by an Indian tribe or tribal organization to Indian children, directly to the tribe or organization), without charge to the State, of

such quantities of qualified pediatric vaccines as may be necessary for the administration of such vaccines to all federally vaccine-eligible children in the State on or after October 1, 1994. This paragraph constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the purchase and delivery to States of the vaccines (or payment under subparagraph (C)) in accordance with this paragraph.

[(B) SPECIAL RULES WHERE VACCINE IS UNAVAILABLE.—To the extent that a sufficient quantity of a vaccine is not available for purchase or delivery under subsection (d), the Secretary shall provide for the purchase and delivery of the available vaccine in accordance with priorities established by the Secretary, with priority given to federally vaccine-eligible children unless the Secretary finds there are other public health considerations.

[(C) SPECIAL RULES WHERE STATE IS A MANUFACTURER.—

[(i) PAYMENTS IN LIEU OF VACCINES.—In the case of a State that manufactures a pediatric vaccine the Secretary, instead of providing the vaccine on behalf of a State under subparagraph (A), shall provide to the State an amount equal to the value of the quantity of such vaccine that otherwise would have been delivered on behalf of the State under such subparagraph but only if the State agrees that such payments will only be used for purposes relating to pediatric immunizations.

[(ii) DETERMINATION OF VALUE.—In determining the amount to pay a State under clause (i) with respect to a pediatric vaccine, the value of the quantity of vaccine shall be determined on the basis of the price in effect for the qualified pediatric vaccine under contracts under subsection (d). If more than 1 such contract is in effect, the Secretary shall determine such value on the basis of the average of the prices under the contracts, after weighting each such price in relation to the quantity of vaccine under the contract involved.

[(b) VACCINE-ELIGIBLE CHILDREN.—For purposes of this section:

[(1) IN GENERAL.—The term “vaccine-eligible child” means a child who is a federally vaccine-eligible child (as defined in paragraph (2)) or a State vaccine-eligible child (as defined in paragraph (3)).

[(2) FEDERALLY VACCINE-ELIGIBLE CHILD.—

[(A) IN GENERAL.—The term “federally vaccine-eligible child” means any of the following children:

[(i) A medicaid-eligible child.

[(ii) A child who is not insured.

[(iii) A child who (I) is administered a qualified pediatric vaccine by a federally-qualified health center (as defined in section 1905(l)(2)(B)) or a rural health

clinic (as defined in section 1905(l)(1)), and (II) is not insured with respect to the vaccine.

[(iv) A child who is an Indian (as defined in subsection (h)(3)).

[(B) DEFINITIONS.—In subparagraph (A):

[(i) The term “medicaid-eligible” means, with respect to a child, a child who is entitled to medical assistance under a state plan approved under this title.

[(ii) The term “insured” means, with respect to a child—

[(I) for purposes of subparagraph (A)(ii), that the child is enrolled under, and entitled to benefits under, a health insurance policy or plan, including a group health plan, a prepaid health plan, or an employee welfare benefit plan under the Employee Retirement Income Security Act of 1974; and

[(II) for purposes of subparagraph (A)(iii)(II) with respect to a pediatric vaccine, that the child is entitled to benefits under such a health insurance policy or plan, but such benefits are not available with respect to the cost of the pediatric vaccine.

[(3) STATE VACCINE-ELIGIBLE CHILD.—The term “State vaccine-eligible child” means, with respect to a State and a qualified pediatric vaccine, a child who is within a class of children for which the State is purchasing the vaccine pursuant to subsection (d)(4)(B).

[(c) PROGRAM-REGISTERED PROVIDERS.—

[(1) DEFINED.—In this section, except as otherwise provided, the term “program-registered provider” means, with respect to a State, any health care provider that—

[(A) is licensed or otherwise authorized for administration of pediatric vaccines under the law of the State in which the administration occurs (subject to section 333(e) of the Public Health Service Act), without regard to whether or not the provider participates in the plan under this title;

[(B) submits to the State an executed provider agreement described in paragraph (2); and

[(C) has not been found, by the Secretary or the State, to have violated such agreement or other applicable requirements established by the Secretary or the State consistent with this section.

[(2) PROVIDER AGREEMENT.—A provider agreement for a provider under this paragraph is an agreement (in such form and manner as the Secretary may require) that the provider agrees as follows:

[(A)(i) Before administering a qualified pediatric vaccine to a child, the provider will ask a parent of the child such questions as are necessary to determine whether the child is a vaccine-eligible child, but the provider need not independently verify the answers to such questions.

[(ii) The provider will, for a period of time specified by the Secretary, maintain records of responses made to the questions.

[(iii) The provider will, upon request, make such records available to the State and to the Secretary, subject to section 1902(a)(7).

[(B)(i) Subject to clause (ii), the provider will comply with the schedule, regarding the appropriate periodicity, dosage, and contraindications applicable to pediatric vaccines, that is established and periodically reviewed and, as appropriate, revised by the advisory committee referred to in subsection (e), except in such cases as, in the provider's medical judgment subject to accepted medical practice, such compliance is medically inappropriate.

[(ii) The provider will provide pediatric vaccines in compliance with applicable State law, including any such law relating to any religious or other exemption.

[(C)(i) In administering a qualified pediatric vaccine to a vaccine-eligible child, the provider will not impose a charge for the cost of the vaccine. A program-registered provider is not required under this section to administer such a vaccine to each child for whom an immunization with the vaccine is sought from the provider.

[(ii) The provider may impose a fee for the administration of a qualified pediatric vaccine so long as the fee in the case of a federally vaccine-eligible child does not exceed the costs of such administration (as determined by the Secretary based on actual regional costs for such administration).

[(iii) The provider will not deny administration of a qualified pediatric vaccine to a vaccine-eligible child due to the inability of the child's parent to pay an administration fee.

[(3) ENCOURAGING INVOLVEMENT OF PROVIDERS.—Each program under this section shall provide, in accordance with criteria established by the Secretary—

[(A) for encouraging the following to become program-registered providers: private health care providers, the Indian Health Service, health care providers that receive funds under title V of the Indian Health Care Improvement Act, and health programs or facilities operated by Indian tribes or tribal organizations; and

[(B) for identifying, with respect to any population of vaccine-eligible children a substantial portion of whose parents have a limited ability to speak the English language, those program-registered providers who are able to communicate with the population involved in the language and cultural context that is most appropriate.

[(4) STATE REQUIREMENTS.—Except as the Secretary may permit in order to prevent fraud and abuse and for related purposes, a State may not impose additional qualifications or conditions, in addition to the requirements of paragraph (1), in order that a provider qualify as a program-registered provider

under this section. This subsection does not limit the exercise of State authority under section 1915(b).

**[(d) NEGOTIATION OF CONTRACTS WITH MANUFACTURERS.—**

**[(1) IN GENERAL.—**For the purpose of meeting obligations under this section, the Secretary shall negotiate and enter into contracts with manufacturers of pediatric vaccines consistent with the requirements of this subsection and, to the maximum extent practicable, consolidate such contracting with any other contracting activities conducted by the Secretary to purchase vaccines. The Secretary may enter into such contracts under which the Federal Government is obligated to make outlays, the budget authority for which is not provided for in advance in appropriations Acts, for the purchase and delivery of pediatric vaccines under subsection (a)(2)(A).

**[(2) AUTHORITY TO DECLINE CONTRACTS.—**The Secretary may decline to enter into such contracts and may modify or extend such contracts.

**[(3) CONTRACT PRICE.—**

**[(A) IN GENERAL.—**The Secretary, in negotiating the prices at which pediatric vaccines will be purchased and delivered from a manufacturer under this subsection, shall take into account quantities of vaccines to be purchased by States under the option under paragraph (4)(B).

**[(B) NEGOTIATION OF DISCOUNTED PRICE FOR CURRENT VACCINES.—**With respect to contracts entered into under this subsection for a pediatric vaccine for which the Centers for Disease Control and Prevention has a contract in effect under section 317(j)(1) of the Public Health Service Act as of May 1, 1993, no price for the purchase of such vaccine for vaccine-eligible children shall be agreed to by the Secretary under this subsection if the price per dose of such vaccine (including delivery costs and any applicable excise tax established under section 4131 of the Internal Revenue Code of 1986) exceeds the price per dose for the vaccine in effect under such a contract as of such date increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) from May 1993 to the month before the month in which such contract is entered into.

**[(C) NEGOTIATION OF DISCOUNTED PRICE FOR NEW VACCINES.—**With respect to contracts entered into for a pediatric vaccine not described in subparagraph (B), the price for the purchase of such vaccine shall be a discounted price negotiated by the Secretary that may be established without regard to such subparagraph.

**[(4) QUANTITIES AND TERMS OF DELIVERY.—**Under such contracts—

**[(A)** the Secretary shall provide, consistent with paragraph (6), for the purchase and delivery on behalf of States (and tribes and tribal organizations) of quantities of pediatric vaccines for federally vaccine-eligible children; and

**[(B)** each State, at the option of the State, shall be permitted to obtain additional quantities of pediatric vaccines (subject to amounts specified to the Secretary by the



State in advance of negotiations) through purchasing the vaccines from the manufacturers at the applicable price negotiated by the Secretary consistent with paragraph (3), if (i) the State agrees that the vaccines will be used to provide immunizations only for children who are not federally vaccine-eligible children and (ii) the State provides to the Secretary such information (at a time and manner specified by the Secretary, including in advance of negotiations under paragraph (1)) as the Secretary determines to be necessary, to provide for quantities of pediatric vaccines for the State to purchase pursuant to this subsection and to determine annually the percentage of the vaccine market that is purchased pursuant to this section and this subparagraph.

The Secretary shall enter into the initial negotiations under the preceding sentence not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993.

[(5) CHARGES FOR SHIPPING AND HANDLING.—The Secretary may enter into a contract referred to in paragraph (1) only if the manufacturer involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate to assure compliance with the contract and if, with respect to a State program under this section that does not provide for the direct delivery of qualified pediatric vaccines, the manufacturer involved agrees that the manufacturer will provide for the delivery of the vaccines on behalf of the State in accordance with such program and will not impose any charges for the costs of such delivery (except to the extent such costs are provided for in the price established under paragraph (3)).

[(6) ASSURING ADEQUATE SUPPLY OF VACCINES.—The Secretary, in negotiations under paragraph (1), shall negotiate for quantities of pediatric vaccines such that an adequate supply of such vaccines will be maintained to meet unanticipated needs for the vaccines. For purposes of the preceding sentence, the Secretary shall negotiate for a 6-month supply of vaccines in addition to the quantity that the Secretary otherwise would provide for in such negotiations. In carrying out this paragraph, the Secretary shall consider the potential for outbreaks of the diseases with respect to which the vaccines have been developed.

[(7) MULTIPLE SUPPLIERS.—In the case of the pediatric vaccine involved, the Secretary shall, as appropriate, enter into a contract referred to in paragraph (1) with each manufacturer of the vaccine that meets the terms and conditions of the Secretary for an award of such a contract (including terms and conditions regarding safety and quality). With respect to multiple contracts entered into pursuant to this paragraph, the Secretary may have in effect different prices under each of such contracts and, with respect to a purchase by States pursuant to paragraph (4)(B), the Secretary shall determine which of such contracts will be applicable to the purchase.

[(e) USE OF PEDIATRIC VACCINES LIST.—The Secretary shall use, for the purpose of the purchase, delivery, and administration

of pediatric vaccines under this section, the list established (and periodically reviewed and as appropriate revised) by the Advisory Committee on Immunization Practices (an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention).

[(f) REQUIREMENT OF STATE MAINTENANCE OF IMMUNIZATION LAWS.—In the case of a State that had in effect as of May 1, 1993, a law that requires some or all health insurance policies or plans to provide some coverage with respect to a pediatric vaccine, a State program under this section does not comply with the requirements of this section unless the State certifies to the Secretary that the State has not modified or repealed such law in a manner that reduces the amount of coverage so required.

[(g) TERMINATION.—This section, and the requirement of section 1902(a)(62), shall cease to be in effect beginning on such date as may be prescribed in Federal law providing for immunization services for all children as part of a broad-based reform of the national health care system.

[(h) DEFINITIONS.—For purposes of this section:

[(1) The term “child” means an individual 18 years of age or younger.

[(2) The term “immunization” means an immunization against a vaccine-preventable disease.

[(3) The terms “Indian”, “Indian tribe” and “tribal organization” have the meanings given such terms in section 4 of the Indian Health Care Improvement Act.

[(4) The term “manufacturer” means any corporation, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities), which manufactures, imports, processes, or distributes under its label any pediatric vaccine. The term “manufacture” means to manufacture, import, process, or distribute a vaccine.

[(5) The term “parent” includes, with respect to a child, an individual who qualifies as a legal guardian under State law.

[(6) The term “pediatric vaccine” means a vaccine included on the list under subsection (e).

[(7) The term “program-registered provider” has the meaning given such term in subsection (c).

[(8) The term “qualified pediatric vaccine” means a pediatric vaccine with respect to which a contract is in effect under subsection (d).

[(9) The terms “vaccine-eligible child”, “federally vaccine-eligible child”, and “State vaccine-eligible child” have the meaning given such terms in subsection (b).

#### [(HOME AND COMMUNITY CARE FOR FUNCTIONALLY DISABLED ELDERLY INDIVIDUALS

[(SEC. 1929. (a) HOME AND COMMUNITY CARE DEFINED.—In this title, the term “home and community care” means one or more of the following services furnished to an individual who has been determined, after an assessment under subsection (c), to be a functionally disabled elderly individual, furnished in accordance with an individual community care plan (established and periodically re-

viewed and revised by a qualified community care case manager under subsection (d)):

- [(1) Homemaker/home health aide services.
- [(2) Chore services.
- [(3) Personal care services.
- [(4) Nursing care services provided by, or under the supervision of, a registered nurse.
- [(5) Respite care.
- [(6) Training for family members in managing the individual.

[(7) Adult day care.

[(8) In the case of an individual with chronic mental illness, day treatment or other partial hospitalization, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility).

[(9) Such other home and community-based services (other than room and board) as the Secretary may approve.

[(b) FUNCTIONALLY DISABLED ELDERLY INDIVIDUAL DEFINED.—

[(1) IN GENERAL.—In this title, the term “functionally disabled elderly individual” means an individual who—

[(A) is 65 years of age or older,

[(B) is determined to be a functionally disabled individual under subsection (c), and

[(C) subject to section 1902(f) (as applied consistent with section 1902(r)(2)), is receiving supplemental security income benefits under title XVI (or under a State plan approved under title XVI) or, at the option of the State, is described in section 1902(a)(10)(C).

[(2) TREATMENT OF CERTAIN INDIVIDUALS PREVIOUSLY COVERED UNDER A WAIVER.—(A) In the case of a State which—

[(i) at the time of its election to provide coverage for home and community care under this section has a waiver approved under section 1915(c) or 1915(d) with respect to individuals 65 years of age or older, and

[(ii) subsequently discontinues such waiver, individuals who were eligible for benefits under the waiver as of the date of its discontinuance and who would, but for income or resources, be eligible for medical assistance for home and community care under the plan shall, notwithstanding any other provision of this title, be deemed a functionally disabled elderly individual for so long as the individual would have remained eligible for medical assistance under such waiver.

[(B) In the case of a State which used a health insuring organization before January 1, 1986, and which, as of December 31, 1990, had in effect a waiver under section 1115 that provides under the State plan under this title for personal care services for functionally disabled individuals, the term “functionally disabled elderly individual” may include, at the option of the State, an individual who—

[(i) is 65 years of age or older or is disabled (as determined under the supplemental security income program under title XVI);

[(ii) is determined to meet the test of functional disability applied under the waiver as of such date; and

[(iii) meets the resource requirement and income standard that apply in the State to individuals described in section 1902(a)(10)(A)(ii)(V).

[(3) USE OF PROJECTED INCOME.—In applying section 1903(f)(1) in determining the eligibility of an individual (described in section 1902(a)(10)(C)) for medical assistance for home and community care, a State may, at its option, provide for the determination of the individual's anticipated medical expenses (to be deducted from income) over a period of up to 6 months.

[(c) DETERMINATIONS OF FUNCTIONAL DISABILITY.—

[(1) IN GENERAL.—In this section, an individual is “functionally disabled” if the individual—

[(A) is unable to perform without substantial assistance from another individual at least 2 of the following 3 activities of daily living: toileting, transferring, and eating; or

[(B) has a primary or secondary diagnosis of Alzheimer's disease and is (i) unable to perform without substantial human assistance (including verbal reminding or physical cueing) or supervision at least 2 of the following 5 activities of daily living: bathing, dressing, toileting, transferring, and eating; or (ii) cognitively impaired so as to require substantial supervision from another individual because he or she engages in inappropriate behaviors that pose serious health or safety hazards to himself or herself or others.

[(2) ASSESSMENTS OF FUNCTIONAL DISABILITY.—

[(A) REQUESTS FOR ASSESSMENTS.—If a State has elected to provide home and community care under this section, upon the request of an individual who is 65 years of age or older and who meets the requirements of subsection (b)(1)(C) (or another person on such individual's behalf), the State shall provide for a comprehensive functional assessment under this subparagraph which—

[(i) is used to determine whether or not the individual is functionally disabled,

[(ii) is based on a uniform minimum data set specified by the Secretary under subparagraph (C)(i), and

[(iii) uses an instrument which has been specified by the State under subparagraph (B).

No fee may be charged for such an assessment.

[(B) SPECIFICATION OF ASSESSMENT INSTRUMENT.—The State shall specify the instrument to be used in the State in complying with the requirement of subparagraph (A)(iii) which instrument shall be—

[(i) one of the instruments designated under subparagraph (C)(ii); or

[(ii) 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 in subparagraph (C)(i).

[(C) SPECIFICATION OF ASSESSMENT DATA SET AND INSTRUMENTS.—The Secretary shall—

[(i) not later than July 1, 1991—

[(I) specify a minimum data set of core elements and common definitions for use in conducting the assessments required under subparagraph (A); and

[(II) establish guidelines for use of the data set; and

[(ii) by not later than July 1, 1991, designate one or more instruments which are consistent with the specification made under subparagraph (A) and which a State may specify under subparagraph (B) for use in complying with the requirements of subparagraph (A).

[(D) PERIODIC REVIEW.—Each individual who qualifies as a functionally disabled elderly individual shall have the individual's assessment periodically reviewed and revised not less often than once every 12 months.

[(E) CONDUCT OF ASSESSMENT BY INTERDISCIPLINARY TEAMS.—An assessment under subparagraph (A) and a review under subparagraph (D) must be conducted by an interdisciplinary team designated by the State. The Secretary shall permit a State to provide for assessments and reviews through teams under contracts—

[(i) with public organizations; or

[(ii)<sup>1</sup> with nonpublic organizations which do not provide home and community care or nursing facility services and do not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, community care or nursing facility services.

[(F) CONTENTS OF ASSESSMENT.—The interdisciplinary team must—

[(i) identify in each such assessment or review each individual's functional disabilities and need for home and community care, including information about the individual's health status, home and community environment, and informal support system; and

[(ii) based on such assessment or review, determine whether the individual is (or continues to be) functionally disabled.

The results of such an assessment or review shall be used in establishing, reviewing, and revising the individual's ICCP under subsection (d)(1).

[(G) APPEAL PROCEDURES.—Each State which elects to provide home and community care under this section must have in effect an appeals process for individuals adversely affected by determinations under subparagraph (F).

[(d) INDIVIDUAL COMMUNITY CARE PLAN (ICCP).—

[(1) INDIVIDUAL COMMUNITY CARE PLAN DEFINED.—In this section, the terms “individual community care plan” and “ICCP” mean, with respect to a functionally disabled elderly individual, a written plan which—

[(A) is established, and is periodically reviewed and revised, by a qualified case manager after a face-to-face interview with the individual or primary caregiver and based upon the most recent comprehensive functional assessment of such individual conducted under subsection (c)(2);

[(B) specifies, within any amount, duration, and scope limitations imposed on home and community care provided under the State plan, the home and community care to be provided to such individual under the plan, and indicates the individual’s preferences for the types and providers of services; and

[(C) may specify other services required by such individual.

An ICCP may also designate the specific providers (qualified to provide home and community care under the State plan) which will provide the home and community care described in subparagraph (B). Nothing in this section shall be construed as authorizing an ICCP or the State to restrict the specific persons or individuals (who are competent to provide home and community care under the State plan) who will provide the home and community care described in subparagraph (B).

[(2) QUALIFIED COMMUNITY CARE CASE MANAGER DEFINED.—In this section, the term “qualified community care case manager” means a nonprofit or public agency or organization which—

[(A) has experience or has been trained in establishing, and in periodically reviewing and revising, individual community care plans and in the provision of case management services to the elderly;

[(B) is responsible for (i) assuring that home and community care covered under the State plan and specified in the ICCP is being provided, (ii) visiting each individual’s home or community setting where care is being provided not less often than once every 90 days, and (iii) informing the elderly individual or primary caregiver on how to contact the case manager if service providers fail to properly provide services or other similar problems occur;

[(C) in the case of a nonpublic agency, does not provide home and community care or nursing facility services and does not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, home and community care or nursing facility services;

[(D) has procedures for assuring the quality of case management services that includes a peer review process;

[(E) completes the ICCP in a timely manner and reviews and discusses new and revised ICCPs with elderly individuals or primary caregivers; and

[(F) meets such other standards, established by the Secretary, as to assure that—

[(i) such a manager is competent to perform case management functions;

[(ii) individuals whose home and community care they manage are not at risk of financial exploitation due to such a manager; and

[(iii) meets such other standards as the State may establish.

The Secretary may waive the requirement of subparagraph (C) in the case of a nonprofit agency located in a rural area.

[(3) APPEALS PROCESS.—Each State which elects to provide home and community care under this section must have in effect an appeals process for individuals who disagree with the ICCP established.

[(e) CEILING ON PAYMENT AMOUNTS AND MAINTENANCE OF EFFORT.—

[(1) CEILING ON PAYMENT AMOUNTS.—Payments may not be made under section 1903(a) to a State for home and community care provided under this section in a quarter to the extent that the medical assistance for such care in the quarter exceeds 50 percent of the product of—

[(A) the average number of individuals in the quarter receiving such care under this section;

[(B) the average per diem rate of payment which the Secretary has determined (before the beginning of the quarter) will be payable under title XVIII (without regard to coinsurance) for extended care services to be provided in the State during such quarter; and

[(C) the number of days in such quarter.

[(2) MAINTENANCE OF EFFORT.—

[(A) ANNUAL REPORTS.—As a condition for the receipt of payment under section 1903(a) with respect to medical assistance provided by a State for home and community care (other than a waiver under section 1915(c) and other than home health care services described in section 1905(a)(7) and personal care services specified under regulations under section 1905(a)(23)), the State shall report to the Secretary, with respect to each Federal fiscal year (beginning with fiscal year 1990) and in a format developed or approved by the Secretary, the amount of funds obligated by the State with respect to the provision of home and community care to the functionally disabled elderly in that fiscal year.

[(B) REDUCTION IN PAYMENT IF FAILURE TO MAINTAIN EFFORT.—If the amount reported under subparagraph (A) by a State with respect to a fiscal year is less than the amount reported under subparagraph (A) with respect to fiscal year 1989, the Secretary shall provide for a reduction in payments to the State under section 1903(a) in an amount equal to the difference between the amounts so reported.

[(f) MINIMUM REQUIREMENTS FOR HOME AND COMMUNITY CARE.—

[(1) REQUIREMENTS.—Home and Community care provided under this section must meet such requirements for individuals' rights and quality as are published or developed by the Secretary under subsection (k). Such requirements shall include—

[(A) the requirement that individuals providing care are competent to provide such care; and

[(B) the rights specified in paragraph (2).

[(2) SPECIFIED RIGHTS.—The rights specified in this paragraph are as follows:

[(A) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

[(B) The right to voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances, and to be told how to complain to State and local authorities.

[(C) The right to confidentiality of personal and clinical records.

[(D) The right to privacy and to have one's property treated with respect.

[(E) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

[(F) The right to education or training for oneself and for members of one's family or household on the management of care.

[(G) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's ICCP.

[(H) The right to be fully informed orally and in writing of the individual's rights.

[(I) Guidelines for such minimum compensation for individuals providing such care as will assure the availability and continuity of competent individuals to provide such care for functionally disabled individuals who have functional disabilities of varying levels of severity.

[(J) Any other rights established by the Secretary.

[(g) MINIMUM REQUIREMENTS FOR SMALL COMMUNITY CARE SETTINGS.—

[(1) SMALL COMMUNITY CARE SETTINGS DEFINED.—In this section, the term "small community care setting" means—

[(A) a nonresidential setting that serves more than 2 and less than 8 individuals; or

[(B) a residential setting in which more than 2 and less than 8 unrelated adults reside and in which personal services (other than merely board) are provided in conjunction with residing in the setting.

[(2) MINIMUM REQUIREMENTS.—A small community care setting in which community care is provided under this section must—



[(A) meet such requirements as are published or developed by the Secretary under subsection (k);

[(B) meet the requirements of paragraphs (1)(A), (1)(C), (1)(D), (3), and (6) of section 1919(c), to the extent applicable to such a setting;

[(C) inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting;

[(D) meet any applicable State or local requirements regarding certification or licensure;

[(E) meet any applicable State and local zoning, building, and housing codes, and State and local fire and safety regulations; and

[(F) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents.

**[(h) MINIMUM REQUIREMENTS FOR LARGE COMMUNITY CARE SETTINGS.—**

**[(1) LARGE COMMUNITY CARE SETTING DEFINED.—**In this section, the term “large community care setting” means—

[(A) a nonresidential setting in which more than 8 individuals are served; or

[(B) a residential setting in which more than 8 unrelated adults reside and in which personal services are provided in conjunction with residing in the setting in which home and community care under this section is provided.

**[(2) MINIMUM REQUIREMENTS.—**A large community care setting in which community care is provided under this section must—

[(A) meet such requirements as are published or developed by the Secretary under subsection (k);

[(B) meet the requirements of paragraphs (1)(A), (1)(C), (1)(D), (3), and (6) of section 1919(c), to the extent applicable to such a setting;

[(C) inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives home and community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting; and

[(D) meet the requirements of paragraphs (2) and (3) of section 1919(d) (relating to administration and other matters) in the same manner as such requirements apply to nursing facilities under such section; except that, in applying the requirement of section 1919(d)(2) (relating to life safety code), the Secretary shall provide for the application of such life safety requirements (if any) that are appropriate to the setting.

**[(3) DISCLOSURE OF OWNERSHIP AND CONTROL INTERESTS AND EXCLUSION OF REPEATED VIOLATORS.—**A community care setting—

[(A) must disclose persons with an ownership or control interest (including such persons as defined in section 1124(a)(3)) in the setting; and

[(B) may not have, as a person with an ownership or control interest in the setting, any individual or person who has been excluded from participation in the program under this title or who has had such an ownership or control interest in one or more community care settings which have been found repeatedly to be substandard or to have failed to meet the requirements of paragraph (2).

**[(i) SURVEY AND CERTIFICATION PROCESS.—**

**[(1) CERTIFICATIONS.—**

[(A) RESPONSIBILITIES OF THE STATE.—Under each State plan under this title, the State shall be responsible for certifying the compliance of providers of home and community care and community care settings with the applicable requirements of subsections (f), (g) and (h). The failure of the Secretary to issue regulations to carry out this subsection shall not relieve a State of its responsibility under this subsection.

[(B) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall be responsible for certifying the compliance of State providers of home and community care, and of State community care settings in which such care is provided, with the requirements of subsections (f), (g) and (h).

[(C) FREQUENCY OF CERTIFICATIONS.—Certification of providers and settings under this subsection shall occur no less frequently than once every 12 months.

**[(2) REVIEWS OF PROVIDERS.—**

[(A) IN GENERAL.—The certification under this subsection with respect to a provider of home or community care must be based on a periodic review of the provider's performance in providing the care required under ICCP's in accordance with the requirements of subsection (f).

[(B) SPECIAL REVIEWS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a provider of home or community care with any of the requirements of subsection (f), the Secretary may conduct a review of the provider and, on the basis of that review, make independent and binding determinations concerning the extent to which the provider meets such requirements.

**[(3) SURVEYS OF COMMUNITY CARE SETTINGS.—**

[(A) IN GENERAL.—The certification under this subsection with respect to community care settings must be based on a survey. Such survey for such a setting must be conducted without prior notice to the setting. Any individual who notifies (or causes to be notified) a community care setting 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 conducting such 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.

[(B) SURVEY PROTOCOL.—Surveys under this paragraph shall be conducted based upon a protocol which the Secretary has provided for under subsection (k).

[(C) PROHIBITION OF CONFLICT OF INTEREST IN SURVEY TEAM MEMBERSHIP.—A State and the Secretary may not use as a member of a survey team under this paragraph 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 community care setting being surveyed (or the person responsible for such setting) respecting compliance with the requirements of subsection (g) or (h) or who has a personal or familial financial interest in the setting being surveyed.

[(D) VALIDATION SURVEYS OF COMMUNITY CARE SETTINGS.—The Secretary shall conduct onsite surveys of a representative sample of community care settings in each State, within 2 months of the date of surveys conducted under subparagraph (A) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under subparagraph (A). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under subparagraph (B). If the State has determined that an individual setting meets the requirements of subsection (g), but the Secretary determines that the setting does not meet such requirements, the Secretary's determination as to the setting's noncompliance with such requirements is binding and supersedes that of the State survey.

[(E) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a community care setting with any of the requirements of subsection (g) or (h), the Secretary may conduct a survey of the setting and, on the basis of that survey, make independent and binding determinations concerning the extent to which the setting meets such requirements.

[(4) INVESTIGATION OF COMPLAINTS AND MONITORING OF PROVIDERS AND SETTINGS.—Each State and the Secretary shall maintain procedures and adequate staff to investigate complaints of violations of applicable requirements imposed on providers of community care or on community care settings under subsections (f), (g) and (h).

[(5) INVESTIGATION OF ALLEGATIONS OF INDIVIDUAL NEGLECT AND ABUSE AND MISAPPROPRIATION OF INDIVIDUAL PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of providers of home or community care and community care settings under this subsection, for a process for the receipt, review, and investigation of allegations of individual neglect and abuse (including injuries of unknown source) by individuals providing such care or in such setting

and of misappropriation of individual property by such individuals. The State shall, after notice to the individual involved and a reasonable opportunity for hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that an individual has neglected or abused an individual receiving community care or misappropriated such individual's property, the State shall notify the individual against whom the finding is made. A State shall not make a finding that a person has neglected an individual receiving community care if the person demonstrates that such neglect was caused by factors beyond the control of the person. The State shall provide for public disclosure of findings under this paragraph upon request and for inclusion, in any such disclosure of such findings, of any brief statement (or of a clear and accurate summary thereof) of the individual disputing such findings.

**[(6) 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, reviews, and certifications made under this subsection respecting providers of home or community care and community care settings, including statements of deficiencies,

**[(ii)** copies of cost reports (if any) of such providers and settings filed under this title,

**[(iii)** copies of statements of ownership under section 1124, and

**[(iv)** information disclosed under section 1126.

**[(B) NOTICES OF SUBSTANDARD CARE.—**If a State finds that—

**[(i)** a provider of home or community care has provided care of substandard quality with respect to an individual, the State shall make a reasonable effort to notify promptly (I) an immediate family member of each such individual and (II) individuals receiving home or community care from that provider under this title, or

**[(ii)** a community care setting is substandard, the State shall make a reasonable effort to notify promptly (I) individuals receiving community care in that setting, and (II) immediate family members of such individuals.

**[(C) ACCESS TO FRAUD CONTROL UNITS.—**Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys, reviews, and certifications under this subsection.

**[(j) ENFORCEMENT PROCESS FOR PROVIDERS OF COMMUNITY CARE.—**

**[(1) STATE AUTHORITY.—**

**[(A) IN GENERAL.—**If a State finds, on the basis of a review under subsection (i)(2) or otherwise, that a provider of home or community care no longer meets the require-

ments of this section, the State may terminate the provider's participation under the State plan and may provide in addition for a civil money penalty. Nothing in this subparagraph shall be construed as restricting the remedies available to a State to remedy a provider's deficiencies. If the State finds that a provider meets such requirements but, as of a previous period, did not meet such requirements, the State may provide for a civil money penalty under paragraph (2)(A) for the period during which it finds that the provider was not in compliance with such requirements.

**[(B) CIVIL MONEY PENALTY.—**

**[(i) IN GENERAL.—**Each State shall establish by law (whether statute or regulation) at least the following remedy: A civil money penalty assessed and collected, with interest, for each day in which the provider is or was out of compliance with a requirement of this section. 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 under subsection (i)(3)(A)) may be applied to reimbursement of individuals for personal funds lost due to a failure of home or community care providers to meet the requirements of this section. The State also shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

**[(ii) DEADLINE AND GUIDANCE.—**Each State which elects to provide home and community care under this section must establish the civil money penalty remedy described in clause (i) applicable to all providers of community care covered under this section. The Secretary shall provide, through regulations or otherwise by not later than July 1, 1990, guidance to States in establishing such remedy; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedy.

**[(2) SECRETARIAL AUTHORITY.—**

**[(A) FOR STATE PROVIDERS.—**With respect to a State provider of home or community care, the Secretary shall have the authority and duties of a State under this subsection, except that the civil money penalty remedy described in subparagraph (C) shall be substituted for the civil money remedy described in paragraph (1)(B)(i).

**[(B) OTHER PROVIDERS.—**With respect to any other provider of home or community care in a State, if the Secretary finds that a provider no longer meets a requirement of this section, the Secretary may terminate the provider's participation under the State plan and may provide, in ad-

dition, for a civil money penalty under subparagraph (C). If the Secretary finds that a provider 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) for the period during which the Secretary finds that the provider was not in compliance with such requirements.

[(C) CIVIL MONEY PENALTY.—If the Secretary finds on the basis of a review under subsection (i)(2) or otherwise that a home or community care provider no longer meets the requirements of this section, the Secretary shall impose a civil money penalty 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). The Secretary shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

[(k) SECRETARIAL RESPONSIBILITIES.—

[(1) PUBLICATION OF INTERIM REQUIREMENTS.—

[(A) IN GENERAL.—The Secretary shall publish, by December 1, 1991, a proposed regulation that sets forth interim requirements, consistent with subparagraph (B), for the provision of home and community care and for community care settings, including—

[(i) the requirements of subsection (c)(2) (relating to comprehensive functional assessments, including the use of assessment instruments), of subsection (d)(2)(E) (relating to qualifications for qualified case managers), of subsection (f) (relating to minimum requirements for home and community care), of subsection (g) (relating to minimum requirements for small community care settings), and of subsection (h) (relating to minimum requirements for large community care settings, and

[(ii) survey protocols (for use under subsection (i)(3)(A)) which relate to such requirements.

[(B) MINIMUM PROTECTIONS.—Interim requirements under subparagraph (A) and final requirements under paragraph (2) shall assure, through methods other than reliance on State licensure processes, that individuals receiving home and community care are protected from neglect, physical and sexual abuse, financial exploitation, inappropriate involuntary restraint, and the provision of health care services by unqualified personnel in community care settings.

[(2) DEVELOPMENT OF FINAL REQUIREMENTS.—The Secretary shall develop, by not later than October 1, 1992—

[(A) final requirements, consistent with paragraph (1)(B), respecting the provision of appropriate, quality home and community care and respecting community care settings under this section, and including at least the requirements referred to in paragraph (1)(A)(i), and

[(B) survey protocols and methods for evaluating and assuring the quality of community care settings.

The Secretary may, from time to time, revise such requirements, protocols, and methods.

[(3) NO DELEGATION TO STATES.—The Secretary's authority under this subsection shall not be delegated to States.

[(4) NO PREVENTION OF MORE STRINGENT REQUIREMENTS BY STATES.—Nothing in this section shall be construed as preventing States from imposing requirements that are more stringent than the requirements published or developed by the Secretary under this subsection.

[(1) WAIVER OF STATEWIDENESS.—States may waive the requirement of section 1902(a)(1) (related to State wideness for a program of home and community care under this section).

[(m) LIMITATION ON AMOUNT OF EXPENDITURES AS MEDICAL ASSISTANCE.—

[(1) LIMITATION ON AMOUNT.—The amount of funds that may be expended as medical assistance to carry out the purposes of this section shall be for fiscal year 1991, \$40,000,000, for fiscal year 1992, \$70,000,000, for fiscal year 1993, \$130,000,000, for fiscal year 1994, \$160,000,000, and for fiscal year 1995, \$180,000,000.

[(2) ASSURANCE OF ENTITLEMENT TO SERVICE.—A State which receives Federal medical assistance for expenditures for home and community care under this section must provide home and community care specified under the Individual Community Care Plan under subsection (d) to individuals described in subsection (b) for the duration of the election period, without regard to the amount of funds available to the State under paragraph (1). For purposes of this paragraph, an election period is the period of 4 or more calendar quarters elected by the State, and approved by the Secretary, for the provision of home and community care under this section.

[(3) LIMITATION ON ELIGIBILITY.—The State may limit eligibility for home and community care under this section during an election period under paragraph (2) to reasonable classifications (based on age, degree of functional disability, and need for services).

[(4) ALLOCATION OF MEDICAL ASSISTANCE.—The Secretary shall establish a limitation on the amount of Federal medical assistance available to any State during the State's election period under paragraph (2). The limitation under this paragraph shall take into account the limitation under paragraph (1) and the number of elderly individuals age 65 or over residing in such State in relation to the number of such elderly individuals in the United States during 1990. For purposes of the previous sentence, elderly individuals shall, to the maximum extent practicable, be low-income elderly individuals.

【COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES

【SEC. 1930. (a) COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES.—In this title, the term “community supported living arrangements services” means one or more of the following services meeting the requirements of subsection (h) provided in a State eligible to provide services under this section (as defined in subsection (d)) to assist a developmentally disabled individual (as defined in subsection (b)) in activities of daily living necessary to permit such individual to live in the individual’s own home, apartment, family home, or rental unit furnished in a community supported living arrangement setting:

- 【(1) Personal assistance.
- 【(2) Training and habilitation services (necessary to assist the individual in achieving increased integration, independence and productivity).
- 【(3) 24-hour emergency assistance (as defined by the Secretary).
- 【(4) Assistive technology.
- 【(5) Adaptive equipment.
- 【(6) Other services (as approved by the Secretary, except those services described in subsection (g)).
- 【(7) Support services necessary to aid an individual to participate in community activities.

【(b) DEVELOPMENTALLY DISABLED INDIVIDUAL DEFINED.—In this title the term, “developmentally disabled individual” means an individual who as defined by the Secretary is described within the term “mental retardation and related conditions” as defined in regulations as in effect on July 1, 1990, and who is residing with the individual’s family or legal guardian in such individual’s own home in which no more than 3 other recipients of services under this section are residing and without regard to whether or not such individual is at risk of institutionalization (as defined by the Secretary).

【(c) CRITERIA FOR SELECTION OF PARTICIPATING STATES.—The Secretary shall develop criteria to review the applications of States submitted under this section to provide community supported living arrangement services. The Secretary shall provide in such criteria that during the first 5 years of the provision of services under this section that no less than 2 and no more than 8 States shall be allowed to receive Federal financial participation for providing the services described in this section.

【(d) QUALITY ASSURANCE.—A State selected by the Secretary to provide services under this section shall in order to continue to receive Federal financial participation for providing services under this section be required to establish and maintain a quality assurance program, that provides that—

- 【(1) the State will certify and survey providers of services under this section (such surveys to be unannounced and average at least 1 a year);
- 【(2) the State will adopt standards for survey and certification that include—

【(A) minimum qualifications and training requirements for provider staff;



[(B) financial operating standards; and

[(C) a consumer grievance process;

[(3) the State will provide a system that allows for monitoring boards consisting of providers, family members, consumers, and neighbors;

[(4) the State will establish reporting procedures to make available information to the public;

[(5) the State will provide ongoing monitoring of the health and well-being of each recipient;

[(6) the State will provide the services defined in subsection (a) in accordance with an individual support plan (as defined by the Secretary in regulations); and

[(7) the State plan amendment under this section shall be reviewed by the State Planning Council established under section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, and the Protection and Advocacy System established under section 142 of such Act.

The Secretary shall not approve a quality assurance plan under this subsection and allow a State to continue to receive Federal financial participation under this section unless the State provides for public hearings on the plan prior to adoption and implementation of its plan under this subsection.

[(e) MAINTENANCE OF EFFORT.—States selected by the Secretary to receive Federal financial participation to provide services under this section shall maintain current levels of spending for such services in order to be eligible to continue to receive Federal financial participation for the provision of such services under this section.

[(f) EXCLUDED SERVICES.—No Federal financial participation shall be allowed for the provision of the following services under this section:

[(1) Room and board.

[(2) Cost of prevocational, vocational and supported employment.

[(g) WAIVER OF REQUIREMENTS.—The Secretary may waive such provisions of this title as necessary to carry out the provisions of this section including the following requirements of this title—

[(1) comparability of amount, duration, and scope of services; and

[(2) statewideness.

[(h) MINIMUM PROTECTIONS.—

[(1) PUBLICATION OF INTERIM AND FINAL REQUIREMENTS.—

[(A) IN GENERAL.—The Secretary shall publish, by July 1, 1991, a regulation (that shall be effective on an interim basis pending the promulgation of final regulations), and by October 1, 1992, a final regulation, that sets forth interim and final requirements, respectively, consistent with subparagraph (B), to protect the health, safety, and welfare of individuals receiving community supported living arrangements services.

[(B) MINIMUM PROTECTIONS.—Interim and final requirements under subparagraph (A) shall assure, through methods other than reliance on State licensure processes

or the State quality assurance programs under subsection (d), that—

[(i) individuals receiving community supported living arrangements services are protected from neglect, physical and sexual abuse, and financial exploitation;

[(ii) a provider of community supported living arrangements services may not use individuals who have been convicted of child or client abuse, neglect, or mistreatment or of a felony involving physical harm to an individual and shall take all reasonable steps to determine whether applicants for employment by the provider have histories indicating involvement in child or client abuse, neglect, or mistreatment or a criminal record involving physical harm to an individual;

[(iii) individuals or entities delivering such services are not unjustly enriched as a result of abusive financial arrangements (such as owner lease-backs); and

[(iv) individuals or entities delivering such services to clients, or relatives of such individuals, are prohibited from being named beneficiaries of life insurance policies purchased by (or on behalf of) such clients.

[(2) SPECIFIED REMEDIES.—If the Secretary finds that a provider has not met an applicable requirement under subsection (h), the Secretary shall impose a civil money penalty 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).

[(i) TREATMENT OF FUNDS.—Any funds expended under this section for medical assistance shall be in addition to funds expended for any existing services covered under the State plan, including any waiver services for which an individual receiving services under this program is already eligible.

[(j) LIMITATION ON AMOUNTS OF EXPENDITURES AS MEDICAL ASSISTANCE.—The amount of funds that may be expended as medical assistance to carry out the purposes of this section shall be for fiscal year 1991, \$5,000,000, for fiscal year 1992, \$10,000,000, for fiscal year 1993, \$20,000,000 for fiscal year 1994, \$30,000,000, for fiscal year 1995, \$35,000,000, and for fiscal years thereafter such sums as provided by Congress.

#### [(REFERENCES TO LAWS DIRECTLY AFFECTING MEDICAID PROGRAM

[(SEC. 1931. (a) AUTHORITY OR REQUIREMENTS TO COVER ADDITIONAL INDIVIDUALS.—For provisions of law which make additional individuals eligible for medical assistance under this title, see the following:

[(1) AFDC.—(A) Section 402(a)(32) of this Act (relating to individuals who are deemed recipients of aid but for whom a payment is not made).

【(B) Section 402(a)(37) of this Act (relating to individuals who lose AFDC eligibility due to increased earnings).

【(C) Section 406(h) of this Act (relating to individuals who lose AFDC eligibility due to increased collection of child or spousal support).

【(D) Section 482(e)(6) of this Act (relating to certain individuals participating in work supplementation programs).

【(2) SSI.—(A) Section 1611(e) of this Act (relating to treatment of couples sharing an accommodation in a facility).

【(B) Section 1619 of this Act (relating to benefits for individuals who perform substantial gainful activity despite severe medical impairment).

【(C) Section 1634(b) of this Act (relating to preservation of benefit status for disabled widows and widowers who lost SSI benefits because of 1983 changes in actuarial reduction formula).

【(D) Section 1634(c) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to child's insurance benefits under section 202(d) of this Act).

【(E) Section 1634(d) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to early widow's or widower's insurance benefits under section 202(e) or (f) of this Act).

【(3) FOSTER CARE AND ADOPTION ASSISTANCE.—Sections 472(h) and 473(b) of this Act (relating to medical assistance for children in foster care and for adopted children).

【(4) REFUGEE ASSISTANCE.—Section 412(e)(5) of the Immigration and Nationality Act (relating to medical assistance for certain refugees).

【(5) MISCELLANEOUS.—(A) Section 230 of Public Law 93–66 (relating to deeming eligible for medical assistance certain essential persons).

【(B) Section 231 of Public Law 93–66 (relating to deeming eligible for medical assistance certain persons in medical institutions).

【(C) Section 232 of Public Law 93–66 (relating to deeming eligible for medical assistance certain blind and disabled medically indigent persons).

【(D) Section 13(c) of Public Law 93–233 (relating to deeming eligible for medical assistance certain individuals receiving mandatory State supplementary payments).

【(E) Section 503 of Public Law 94–566 (relating to deeming eligible for medical assistance certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits).

【(F) Section 310(b)(1) of Public Law 96–272 (relating to continuing medicaid eligibility for certain recipients of Department of Veterans Affairs pensions).

【(b) ADDITIONAL STATE PLAN REQUIREMENTS.—For other provisions of law that establish additional requirements for State plans to be approved under this title, see the following:

[(1) Section 1618 of this Act (relating to requirement for operation of certain State supplementation programs).

[(2) Section 212(a) of Public Law 93-66 (relating to requiring mandatory minimum State supplementation of SSI benefits program).]

\* \* \* \* \*

## SECTION 6408 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1989

### SEC. 6408. OTHER MEDICAID PROVISIONS.

(a) INSTITUTIONS FOR MENTAL DISEASES.—

(1) \* \* \*

\* \* \* \* \*

(3) MORATORIUM ON TREATMENT OF CERTAIN FACILITIES.—  
Any determination by the Secretary that Kent Community Hospital Complex in Michigan or Saginaw Community Hospital in Michigan is an institution for mental diseases, for purposes of title XIX of the Social Security Act shall not take effect until [December 31, 1995] *October 1, 1997*.

\* \* \* \* \*

## SECTION 2 OF THE ACT OF APRIL 28, 1992

AN ACT To direct the Secretary of Health and Human Services to grant a waiver of the requirement limiting the maximum number of individuals enrolled with a health maintenance organization who may be beneficiaries under the medicare or medicaid programs in order to enable the Dayton Area Health Plan, Inc., to continue to provide services through January 1994 to individuals residing in Montgomery County, Ohio, who are enrolled under a State plan for medical assistance under title XIX of the Social Security Act.

### SEC. 2. PERIOD OF APPLICABILITY.

The period referred to in subsections (a) and (b)(1) of section 1 is the period that begins on May 1, 1992, and ends on [December 31, 1995] *October 1, 1997*.

## SECTION 2605 OF THE LOW-INCOME ENERGY ASSISTANCE ACT OF 1981

### APPLICATIONS AND REQUIREMENTS

SEC. 2605. (a) \* \* \*

\* \* \* \* \*

(f)[(1)] Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, the amount of any home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under this title shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or

State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.

[(2) For purposes of paragraph (1) of this subsection and for purposes of determining any excess shelter expense deduction under section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e))—

[(A) the full amount of such payments or allowances shall be deemed to be expended by such household for heating or cooling expenses, without regard to whether such payments or allowances are provided directly to, or indirectly for the benefit of, such household; and

[(B) no distinction may be made among households on the basis of whether such payments or allowances are provided directly to, or indirectly for the benefit of, any of such households.]

\* \* \* \* \*

## TECHNICAL APPENDIX

### EXPLANATION OF MEDICAID COMPUTATION OF STATE PAYMENTS

The Medicaid Restructuring Act of 1996 would limit Federal matching payments to each State to a fixed allotment. The first section of this appendix explains how the State allotments are computed. Subject to allotments, payments to the State out of those allotments are based on a new Federal medical assistance percentage (New FMAP) which is explained in the second section of this appendix.

### ALLOTMENT OF FUNDS AMONG STATES

#### *Overview*

This section presents a step-by-step description of the computation of allotments of funds. The allotment is based on the States sharing a fixed pool of funds. In fiscal year 1996, the State allocations are specified in the legislation. Beginning in fiscal year 1997, a needs-based State allotment formula is used. The needs-based formula is intended to provide a measure of the relative needs of States for Medicaid expenditures. The needs-based allotment is then subject to “floors” and “ceilings” which are transition rules intended to ensure that no State would be subject to sudden large shifts in payments from year-to-year and that no State would lose funds. Finally, the formula computation uses proportional scaling to ensure that the combination of the needs-based formula together with floors and ceilings produces State allotments that sum exactly to the overall funding level for the program in each fiscal year.

#### *Pool of funds*

The pool available to be allotted would be \$96.6 billion for fiscal year 1996, \$103.4 billion for fiscal year 1997, \$108.4 billion for fiscal year 1998, \$113.7 billion for fiscal year 1999, \$119.1 billion for fiscal year 2000, \$124.9 billion for fiscal year 2001, and \$130.9 billion for fiscal year 2002. For later years, the pool amount would be the previous year’s amount increased by the lesser of 4 percent or the growth in the Consumer Price Index for all urban consumers

(CPI-U) for the 12-month period ending in June before the start of the year in question. Pool amounts to be allocated among the 50 States and the District of Columbia would be reduced by the amount of allotments to Commonwealths and Territories. The percentage growth in the pool amount over the pool amount in the preceding year would be designated the “national medicaid growth percentage” (NMGP). This percentage is used in floors and ceilings described below.

#### *Fiscal year 1996 allotment*

For fiscal year 1996, the State grant amount is specified in the legislation.

#### *Commonwealths and territories*

Beginning with fiscal year 1997, the Commonwealths and Territories will have percentage increases equal to the national medicaid growth percentage (NMGP) defined above under “Pool of Funds.” Because comparable data are unavailable, the needs-based formula described below could not be applied to the Commonwealths and Territories. Unless otherwise specified, “State” in this Appendix refers to the 50 States and the District of Columbia.

#### *Description of the needs-based allotment formula*

##### *Needs-based amount*

The needs-based amount for a State is the Federal share of the State’s aggregate expenditure need (defined below) after application of the floors and ceilings described in section 1511(c)(3) and after these amounts have been proportionally adjusted to ensure that State grant amounts equal the amount available for distribution to the States. The Federal share of a State’s aggregate expenditure need is calculated by multiplying the State’s aggregate expenditure need by its “old” Federal medical assistance percentage (FMAP), as defined in section 1512(d). The floors and ceilings are applied and amounts adjusted by the scaling factor.

Each State’s needs-based amount is computed using the following formula:

$$NBFA = \left( \frac{\text{State Aggregate Expenditure Need}}{\text{State Aggregate Expenditure Need}} \right) \times \left( \frac{\text{Old FMAP}}{\text{Old FMAP}} \right) \times \left( \frac{\text{Adjustment Factor}}{\text{Adjustment Factor}} \right)$$

##### *State aggregate expenditure need*

A State’s aggregate need is an amount which represents the total dollar outlay a State would have make to finance the U.S. average spending per person in poverty in the year prior to enactment after adjusting for inflation since the base year. Aggregate need is the product of four factors: program need (defined below), a health care cost index, the national average spending per person in poverty in the year, and the projected inflation from the base year to the current year.

$$\left( \frac{\text{State Aggregate Expenditure Need}}{\text{State Aggregate Expenditure Need}} \right) = \left( \frac{\text{Program Need}}{\text{Program Need}} \right) \times \left( \frac{\text{Health Care Cost Index}}{\text{Health Care Cost Index}} \right) \times \left( \frac{\text{U.S. Spending Per Person in Poverty}}{\text{U.S. Spending Per Person in Poverty}} \right)_{\text{base year}} \times \left( \frac{\text{Projected Inflation Rate}}{\text{Projected Inflation Rate}} \right)$$

### *Program need*

The total number of individuals-in-need in a State is disaggregated into five categories: (1) elderly between 60 and 85; (2) elderly over 85; (3) disabled; (4) children; and (5) all other eligibles. The number of needy in each eligibility category is calculated by multiplying the total number of people in poverty in each State by the percentage of recipients in each eligibility category in that State.

The weight for each eligibility category is to be calculated annually by the Health Care Financing Administration (HCFA) based on the U.S. average spending per recipient in each category compared to the U.S. average spending per recipient in all categories. Program need is calculated using the following formula:

$$\begin{aligned}
 & \left( \begin{array}{c} \text{Elderly} \\ \text{Ages 60-85} \\ \text{Weight} \end{array} \right) \times \left( \begin{array}{c} \text{Elderly} \\ \text{Need} \\ \text{Ages 60-85} \end{array} \right) + \left( \begin{array}{c} \text{Elderly} \\ \text{Ages 85+} \\ \text{Weight} \end{array} \right) \times \left( \begin{array}{c} \text{Elderly} \\ \text{Need} \\ \text{Ages 85+} \end{array} \right) + \\
 \text{Program} &= \left( \begin{array}{c} \text{Disabled} \\ \text{Weight} \end{array} \right) \times \left( \begin{array}{c} \text{Disabled} \\ \text{Need} \end{array} \right) + \left( \begin{array}{c} \text{AFDC} \\ \text{Child} \\ \text{Weight} \end{array} \right) \times \left( \begin{array}{c} \text{AFDC} \\ \text{Child} \\ \text{Need} \end{array} \right) + \\
 & \left( \begin{array}{c} \text{Other} \\ \text{Eligible} \\ \text{Weight} \end{array} \right) \times \left( \begin{array}{c} \text{Other} \\ \text{Eligible} \\ \text{Need} \end{array} \right)
 \end{aligned}$$

### *Constraint on program need*

The value for program need may not exceed 115 percent and may not fall below 90 percent of the State's program need computed on U.S. averages. The State's program computed on U.S. or national averages is calculated similarly to program need for each State except that the percentage of recipients in each eligibility category in that State is replaced by the percentage of recipients in each eligibility category for the entire United States. This calculation is performed for each of the five eligibility categories, and the results are then summed. The summed value is referred to as the State's program need computed on U.S. averages. If the value for the State's program need falls below 90 percent of the State's value computed on U.S. averages, then the State's program need value in the Medicaid formula is set to 90 percent of the State's program computed on U.S. averages. Analogously, if the value for the State's program need exceeds 115 percent of the State's program computed on U.S. averages, then the State's program need value in the Medicaid formula is set to 115 percent of the State's program computed on U.S. averages.

### *Health care cost index*

The health care cost index, or the input cost index, is a factor representing the cost of labor and other inputs used to provide health care services. Data is obtained from HCFA representing wages paid and hours worked in hospitals participating in the Medicare prospective payment system. Based on the total wages paid and hours worked as reported by each participating hospital

in a State, an average annual wage per hour is calculated for the State. This average wage rate for each State is then divided by the U.S. average annual wage rate to produce an index for each State.

The index described in the preceding paragraph is computed for each State in each of the 3 most recent years for which the data are available, and for each State an average of those three indexes is computed. The input cost index used in the formula for State aggregate need is based on multiplying the 3-year average wage index by 85 percent and adding to that 15 percent of one (1.00) to reflect costs of inputs that are uniform nationwide, such as the cost of prescription drugs.

*U.S. spending per person in poverty*

U.S. spending represents total Federal and State Medicaid spending, based on line 11 of the HCFA Form 64 reports from each State and the District of Columbia for the most recent year prior to enactment, for which data is available from HCFA. This amount is divided by the U.S. average number of persons in poverty for the 3 most recent years data available prior to enactment.

*Projected inflation rate*

The projected inflation rate is the percent increase in inflation since the year prior to enactment derived from CBO baseline projections of inflation for the year for which grant amounts are being calculated.

*Old Federal medical assistance percentage*

A State's Old Federal medical assistance percentage (Old FMAP) is the Federal share of total Medicaid spending as calculated by HCFA under current law.<sup>1</sup> (This is not the use of historical FMAP values; the Old FMAP formula would continue to be computed as more current data become available). Old FMAP equals 1 minus the product of .45 multiplied by the square of the ratio of State per capita personal income (PCI) to the U.S. average PCI. This formula is expressed as:

$$OldFMAP = 1.0 - 0.45 \left( \frac{PCI_{state}}{PCI_{us}} \right)^2$$

Also as provided in current law, the Old FMAP for any State shall not be less than 50 percent or greater than 83 percent.

*Description of the floor and ceilings*

The needs-based formula allotment of each State is constrained by floors and ceilings that are collectively intended to moderate year-to-year changes and, in particular, to ensure that no State loses funds compared to the previous year.

Growth Caps. For fiscal year 1997, no State's growth in Federal funding may exceed 9 percent. In succeeding years, the growth cap for the 10 States with lowest Federal funding per person in poverty may not exceed 150 percent of the U.S. average growth in appro-

<sup>1</sup> Note that old FMAP is used to compute State aggregate needs and thus the State allotment, but New FMAP is used to compute payments out of that State allotment.



priations. For all other States, the growth ceiling may not exceed 133 percent of the U.S. average growth in appropriations.

**Growth Floors.** All States are guaranteed at least 3.5 percent growth for fiscal year 1997, 3.0 percent in fiscal year 1998, and 2.5 percent in fiscal year 1999 and 2.0 percent in succeeding years.

**Out-year Hold harmless.** States whose growth in Federal funding for fiscal year 1997 is above 6.8 percent may never fall below 90 percent of the U.S. average growth in appropriations beginning in fiscal year 1998.

**Small State Minimum.** Beginning in fiscal year 1998, no State may receive less than 0.24 percent of total Federal funding, subject to the limitations of the growth caps.

*Ensuring that the formula allotments also comply with budget targets*

The allotment process is designed to guarantee that three fundamental conditions are met:

1. The amounts allotted any two States are proportional to their relative needs-based formula amounts (except States subject to a floor or ceiling);
2. In any instance where the needs-based formula amount would otherwise fall below a floor or exceed a ceiling, the grant allotment is set to the amount of the applicable growth floor or ceiling; and
3. The sum of all the individual State allotment amounts must exactly equal the pool amount available for the fiscal year.

These three conditions are satisfied by computing a unique, constant multiplier (called the "adjustment factor" or "scalar factor") which increases or decreases every needs-based formula allotment in equal proportions as necessary to ensure that the State grants sum to the target amount. The differences among States' allotments remain in proportion to differences in their aggregate needs with the only exceptions being the allotments for those States which are determined according to the applicable floors and ceilings.

The adjustment factor is used to compute needs-based formula amounts that sum exactly to the pool amount only when subjected to the rules for floors and ceilings. The application of growth ceilings decreases allotments from the needs-based amounts while the growth floors increase allotments over the needs-based formula amount. It is highly unlikely the opposing effects of the ceilings and floors on the allotments will exactly balance. In effect, the adjustment factor balances the aggregate effects of the ceilings and floors by proportionally adjusting all the needs-based formula amounts.

The adjustment factor is determined using a computer model programmed to subject the needs-based formula amounts to the ceilings and floors. The adjustment factor produces a set of needs-based formula amounts such that, after any applicable growth ceiling amounts and floor amounts are substituted for any needs-based formula amounts, the State allotments will then total exactly to the dollar amount available. The resulting distribution among States thereby satisfies all three fundamental conditions above.

*Election of alternative growth formula*

The bill allows a State to choose to defer a portion of its State allotment in any 1 year and then apply those funds to 1 or more subsequent fiscal years. This does not in any way reduce or change amounts allotted to any other State.

## FMAP COMPUTATIONS FOR PAYMENTS TO THE STATES

Payments to the States under the Medicaid program would become closed-ended which means that the State expenditures would be matched up to the amount of the State's allotment in that year. (However, carryover of allotment is allowed so that any State allotment that is unused in a fiscal year is available for matching in a subsequent year or years.) Federal payments to a State would equal the State's spending multiplied by the new Federal medical assistance percentage (New FMAP) computed for that State. New FMAP is the greater of the Old FMAP, as computed under current law, or a New FMAP formula amount. The New FMAP formula amount is 100 percent minus the product of .39 multiplied by the ratio of the State's total taxable resources (TTR) share to the State aggregate expenditure needs share. The TTR is a measure of State revenue raising capacity (it includes per capita personal income as does the Old FMAP, but it is more comprehensive measure of a State's economy) produced by the U.S. Department of the Treasury. A State's TTR share is equal to the most recent 3-year average of TTR of the State divided by the sum of the 3-year average TTR's of all States.<sup>2</sup> The State aggregate expenditure needs share is the ratio of the State aggregate expenditure needs as defined earlier to the sum of all States' aggregate expenditure needs. New FMAP can be expressed as:

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<sup>2</sup>In the case of the District of Columbia, the TTR share is replaced by a personal income share which is the quotient of the District's most recent 3-year average of personal income divided by the sum of the personal income of the States.

$$NewFMAP = 1.0 - 0.39 \times \left( \frac{(TTR_{State} / TTR_{US})}{(SAEN_{State} / SAEN_{US})} \right)$$

where:

$TTR_{State}$  = the average of the three most-recent years of Total Taxable Resources of the State;

$TTR_{US}$  = the sum of  $TTR_{State}$  for all States and D.C.;

(For New FMAP of D.C., personal income is substituted for TTR in both definitions of terms above):

$SAEN_{State}$  = State aggregate expenditure need that, as defined earlier, is the product of four terms: poverty count, caseload cost index, input cost index, and U.S. average expenditure per person in poverty;

$SAEN_{US}$  = the sum of  $SAEN_{State}$  for all States.

The New FMAP formula amount is also subject to constraints that limit its range, and prevent decreases and limit increases when compared to the Old FMAP. The New FMAP cannot be less than 40 percent, nor more than 83 percent; and the New FMAP cannot be less than Old FMAP, nor exceed Old FMAP plus 10 percentage points.

## APPENDIX A TO TITLE II

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### RESTRUCTURING MEDICAID

#### *Preamble*

For most of the last decade, health care expenditures in the United States have far exceeded overall growth in the U.S. economy. And while medical inflation is declining, public and privately funded health care costs continue to limit the long term economic growth of the Nation. For States, the primary impact of health care costs on State budgets has been in the Medicaid program. Annual Medicaid growth over the last decade has been well in excess of 10 percent, and in half of those years annual growth approached 20 percent. Determining the causes of such unbridled growth is difficult. However, major contributing factors include: congressional expansions in the program, court decisions limiting the States in their ability to control costs, policy decisions by States maximizing Federal financing of previously State-funded health care programs, and changing demographics.

Restricting the growth of Medicaid is no easy task. Medicaid is the primary source of health care for low income pregnant women and children, persons with disabilities, and the elderly. This year, States and the Federal Government combined will spend more than \$140 billion in this program providing care to more than 28 million people. The challenge for the Nation, and Governors as the stewards of this program, is to redesign Medicaid so that health care costs are more effectively contained and those that truly need health care coverage continue to gain access to that care while giving States the needed flexibility to maximize the use of these limited health care dollars to most effectively meet the needs of low income individuals.

#### *The New Program*

Within the balanced budget debate, a number of alternatives to the existing Medicaid program have been proposed. The following outlines the Nation's Governors proposal that blends the best aspects of the current program with congressional and administration alternatives toward achieving a streamlined and State-flexible health care system that guarantees health care to our most needy citizens.

#### *Program goals*

The program is guided by four primary goals:

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.

### *Eligibility*

Coverage remains guaranteed for:

- Pregnant women to 133 percent of poverty.
- Children to age 6 to 133 percent of poverty.
- Children age 6 through 12 to 100 percent of poverty.
- The elderly who meet SSI income and resource standards.

Persons with disabilities as defined by the State in their State plan. States will have a funds set-aside requirement equal to 90 percent of the percentage of total medical assistance funds paid in fiscal year 1995 for persons with disabilities.

Medicare cost sharing for Qualified Medicare Beneficiaries.

Either:

Individuals or families who meet current AFDC income and resource standards (States with income standards higher than the national average may lower those standards to the national average); or

States can run a single eligibility system for individuals who are eligible for a new welfare program as defined by the State.

Consistent with the statute, adequacy of the State plan will be determined by the Secretary of HHS. The Secretary should have a time certain to act.

Coverage remains optional for:

All other optional groups in the current Medicaid program.

Other individuals or families as defined by the State but below 275 percent of poverty.

### BENEFITS

The following benefits remain guaranteed for the guaranteed populations only: Inpatient and outpatient hospital services, physician services, prenatal care, nursing facility services, home health care, family planning services and supplies, laboratory and x-ray services, pediatric and family nurse practitioner services, nurse midwife services, and Early and Periodic Screening, Diagnosis and Treatment Services. (The "T" in EPSDT is redefined so that a State need not cover all Medicaid optional services for children.)

At a minimum, all other benefits defined as optional under the current Medicaid program would remain optional and long term care options significantly broadened.

States have complete flexibility in defining amount, duration, and scope of services.

### PRIVATE RIGHT OF ACTION

The following are the only rights of action for individuals or classes for eligibility. All of these features will be designed to prevent States from having to defend against an individual's suit on benefits in Federal court.

Before taking action in the State courts, the individual must follow a State administrative appeals process.

States must offer individuals or classes a private right of action in the State courts as a condition of participation in the program.

Following action in the State courts, an individual or class could petition the U.S. Supreme Court.

Independent of any State judicial remedy, the Secretary of HHS could bring action in the Federal courts on behalf of individuals or classes but not for providers or health plans.

There should be no private right of action for providers or health plans.

#### SERVICE DELIVERY

States must be able to use all available health care delivery systems for these populations without any special permission from the Federal Government.

States must not have federally imposed limits on the number of beneficiaries who may be enrolled in any network.

#### PROVIDER STANDARDS AND REIMBURSEMENTS

States must have complete authority to set all health plan and provider reimbursement rates without interference from the Federal Government or threat of legal action of the provider or plan.

The Boren amendment and other Boren-like statutory provisions must be repealed.

"One hundred percent reasonable cost reimbursement" must be phased out over a 2-year period for federally qualified health centers and rural health clinics.

States must be able to set their own health plan and provider qualifications standards and be unburdened from any Federal minimum qualification standards such as those currently set for obstetricians and pediatricians.

For the purpose of the Qualified Medicare Beneficiaries program, the States may pay the Medicaid rate in lieu of the Medicare rate.

#### NURSING HOME REFORMS

States will abide by the OBRA '87 standards for nursing homes.

States will have the flexibility to determine enforcement strategies for nursing home standards and will include them in their State plan.

#### PLAN ADMINISTRATION

States must be unburdened from the heavy hand of oversight by the Health Care Financing Administration.

The plan and plan amendment process must be streamlined to remove HCFA micromanagement of State programs.

Oversight of State activities by the Secretary must be streamlined to assure that Federal intervention occurs only when a State fails to comply substantially with Federal statutes or use own plan.

HCFA can only impose disallowances that are commensurate with the size of the violation.

This program should be written under a new title of the Social Security Act.

#### PROVIDER TAXES AND DONATIONS

Current provider tax and donation restrictions in Federal statutes would be repealed.

Current and pending State disputes with HHS over provider taxes would be discontinued.

#### *Financing*

Each State will have a maximum Federal allocation that provides the State with the financial capacity to cover Medicaid enrollees. The allocation is available only if the State puts up a matching percentage (methodology to be defined). The allocation is the sum of four factors: base allocation, growth, special grants (special grants have no State matching requirement) and an insurance umbrella, described as follows:

1. *Base.* In determining base expenditures, a State may choose from the following—1993 expenditures, 1994 expenditures, or 1995 expenditures. Some States may require special provisions to correct for anomalies in their base year expenditures.

2. *Growth.* This is a formula that accounts for estimated changes in the State's caseload (both overall growth and case mix) and an inflation factor. The details of this formula are to be determined. This formula is calculated each year for the following year based on the best available data.

3. *Special Grants.* Special grant funds will be made available for certain States to cover illegal aliens and for certain States to assist Indian Health Service and related facilities in the provision of health care to Native Americans. States will have no matching requirement to gain access to these Federal funds.

4. *The Insurance Umbrella.* This insurance umbrella is designed to ensure that States will get access to additional funds for certain populations if, because of unanticipated consequences, the growth factor fails to accurately estimate the growth in the population. Funds are guaranteed on a per-beneficiary basis for those described below who were not included in the estimates of the base and the growth. These funds are an entitlement to States and not subject to annual appropriations.

**Populations and Benefits:** Access to the insurance umbrella is available to cover the cost of care for both guaranteed and optional benefits. The umbrella covers all guaranteed populations and the optional portion of two groups—persons with disabilities and the elderly.

**Access to the Insurance Umbrella:** The insurance umbrella is available to a State only after the following conditions are met.

1. States must have used up other available base and growth funds that had not been used because the estimated population in the growth and base was greater than the actual population served.

2. Appropriate provisions will be established to ensure that States do not have access to the umbrella funds unless there is a demonstrable need.

5. *Matching Percentage.* With the exception of the special grants, States must share in the cost of the program. A State's matching contribution in the program will not exceed 40 percent.

6. *Disproportionate Share Hospital Program.* Current disproportionate share hospital spending will be included in the base. DSH funds must be spent on health care for low income people. A State will not receive growth on DSH if these funds constitute more than 12 percent of total program expenditures.

Provision for Territories: The National Governors' Association strongly encourages Congress to work with the Governors of Puerto Rico, Guam, and other territories towards allocating equitable Federal funding for their medical assistance programs.



## APPENDIX B TO TITLE II

### SIDE-BY-SIDE ANALYSIS OF THE NGA “RESTRUCTURING MEDICAID” AGREEMENT AND “THE MEDICAID RESTRUCTURING ACT OF 1996”

NGA “Restructuring Medicaid” provision	Section reference from H.R. 3507, Division B
<b>ELIGIBILITY:</b>	
Pregnant women to 133 percent of the Federal poverty line .....	Section 1501(a)(1)(A)
Children to age 6 to 133 percent of the Federal poverty line .....	Section 1501(a)(1)(B)
Children age 6 through 12 to 100 percent FPL .....	Section 1501(a)(1)(C)
Elderly who meet SSI standards .....	Section 1501(a)(1)(E)
Disabled persons who meet specified standards .....	Section 1501(a)(1)(D)
State definition .....	Section 1501(a)(3)
Funding set-aside for the disabled .....	Section 1502(c)
SSI definition .....	Section 1501(a)(1)(D)(ii)
QMBs, SLMBs, and QWDIs .....	Section 1501(b)
Public assistance recipients AFDC standards .....	Section 1501(a)(1)(G)
Public assistance recipients: new program standards .....	Section 1501(a)(6)
Optional populations to 275 percent of the Federal poverty line .....	Section 1571(b)
Determination of adequacy of State plan by Secretary .....	Section 1529(b)
<b>BENEFITS:</b>	
Impatient and outpatient hospital services .....	Section 1501(a)(2)(A)
Physicians’ surgical and medical services .....	Section 1501(a)(2)(B)
Laboratory and x-ray services .....	Section 1501(a)(2)(C)
Immunizations for children .....	Section 1501(a)(2)(G)
Prenatal care services .....	Section 1501(a)(2)(I)
Nurse midwife services .....	Section 1501(a)(2)(J)
Pediatric and family nurse practitioner services .....	Section 1501(a)(2)(J)
Nursing facility services .....	Section 1501(a)(2)(C)
Home health care services .....	Section 1501(a)(2)(D)
Services provided by FQHCs and RHCs .....	Section 1501(a)(2)(F)
Family planning services and supplies .....	Section 1501(a)(2)(H)
Early periodic screening and diagnostic services .....	Section 1501(a)(2)(K)
EPSDT redefinition .....	Section 1571(e)
Amount, duration and scope .....	Section 1502(b)(1)(B)
<b>PRIVATE RIGHT OF ACTION:</b>	
State administrative appeals process .....	Section 1508(b)(1)(A)
Judicial review in the State court system .....	Section 1508(b)(1)(B)
Writ of certiorari to the U.S. Supreme Court .....	Section 1508(b)(2)
Secretarial action against a State in Federal court .....	Section 1508(c)(1)
<b>SERVICE DELIVERY:</b>	
State flexibility to use all available health care delivery systems and expand coverage to new enrollee.	Section 1507
<b>PROVIDER STANDARDS AND REIMBURSEMENTS:</b>	
Flexibility in setting provider reimbursement rates .....	Section 1502(b)(1)(D)
Repeal of the Boren Amendment and similar provisions .....	Section 2004(a)(1)
100 percent cost-based reimbursement for FQHCs and RHCs .....	Section 1502(d)
State flexibility re provider qualifications and standards .....	Section 1507
Medicaid rate for QMBs instead of Medicare rate .....	Section 1501(b)(2)(B)
<b>NURSING HOME STANDARDS AND RELATED PROTECTIONS:</b>	
Retention of current law (OBRA ‘87 standards) .....	Section 1557
Spousal Impoverishment .....	Section 1505
Family Impoverishment .....	Section 1506
<b>PLAN ADMINISTRATION:</b>	
Relief from excessive HCFA oversight .....	Sections 1521–1530
Plan submission and amendment process .....	Sections 1526, 1527
Authority of Secretary to initiate Federal intervention .....	Sections 1529, 1530

SIDE-BY-SIDE ANALYSIS OF THE NGA “RESTRUCTURING MEDICAID” AGREEMENT AND “THE  
MEDICAID RESTRUCTURING ACT OF 1996”—Continued

NGA “Restructuring Medicaid” provision	Section reference from H.R. 3507, Division B
Disallowance commensurate with violation .....	Section 1529(g)
New title of the Social Security Act .....	New Title XV
PROVIDER TAXES AND DONATIONS:	
Repeal current provider taxes and donations .....	Title XIX repealed
Discontinue current HHS provider tax disputes .....	Section 2004(b)
FINANCING:	
Base Allotment and Growth .....	Section 1511(a)–(e)
Special Grant for Illegal Aliens .....	Section 1511(f)
Special Grant for Native Americans .....	Section 1511(h)
Insurance Umbrella Fund .....	Section 1511(g)
Coverage of Guaranteed Populations .....	Section 1511(g)(2)
Coverage of Optional Populations .....	Section 1501(a), 1511(g)(2)
Matching Percentage (FMAP) .....	Section 1512(c)
Disproportionate Share Hospitals .....	Section 1502(b)(1)(G)
TREATMENT OF TERRITORIES:	
Allocation of equitable funding .....	Section 1511(c)(5)
Secretarial waiver authority .....	Section 1572

## APPENDIX C TO TITLE II

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CONGRESSIONAL RESEARCH SERVICE,  
LIBRARY OF CONGRESS,  
Washington, DC, June 11, 1996.

To: Honorable Thomas Bliley, Jr. Attention: Howard Cohen.  
From: Jennifer O'Sullivan, Specialist in Social Legislation, Education and Public Welfare Division.  
Subject: Qualified Medicare Beneficiary Program.

The following information is in response to your inquiry concerning current and proposed payment policies under the Qualified Medicare Beneficiary (QMB) program.

### *Current law*

The Medicare program offers protection for aged and certain disabled persons against the costs associated with acute health care services. Medicare beneficiaries are required to pay a portion of the cost of these services themselves in the form of cost-sharing charges. Such charges could pose a potential hardship for some persons, especially those who do not have supplementary protection either through an individually purchased "Medigap" policy or employer-based coverage. In response to this concern, legislation was enacted in 1988 establishing the QMB program. Under this program, certain low-income Medicare beneficiaries are entitled to have their Medicare cost-sharing charges paid by the federal-State Medicaid program.<sup>1</sup>

Persons meeting the QMB qualifications for coverage, but not otherwise eligible for Medicaid, are not entitled to the regular Medicaid benefit package. Instead, they are entitled to have Medicaid make specified payments in their behalf.

Definition. State Medicaid programs are required to make Medicare cost-sharing assistance available to QMB. A QMB is an aged or disabled Medicare beneficiary who has: (1) income at or below the Federal poverty line; and (2) resources below 200 percent of the limit set for the Supplemental Security Income (SSI) program (the cash assistance program for low income aged and disabled persons). Medicaid is required to pay Medicare premiums and cost-sharing charges for these persons. Medicaid coverage is limited to payment of these charges unless the beneficiary is otherwise eligible for Medicaid.

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<sup>1</sup>More limited Medicaid coverage is offered for two other population groups: (1) persons who meet the QMB criteria except that their income is slightly in excess of the poverty line (the Specified Low-Income Medicare Beneficiary (SLMB) population); and (2) qualified disabled and working individuals (QDWIs). Medicaid protection for the SLMB population not otherwise eligible for Medicaid is limited to payment of the monthly Part B premium. Medicaid protection for the QDWI population is limited to payment of the Part A premium.

Persons meeting the QMB definition must be entitled to Medicare Part A Hospital Insurance coverage. Included is the relatively small group of aged persons who are not automatically entitled to Part A coverage, but who have bought Part A protection by paying a monthly premium. Not included are working disabled persons who have exhausted Medicare Part A entitlement but who have extended their coverage by payment of a monthly premium.

To be eligible as a QMB, an individual must have income at or below 100 percent of the Federal poverty line for a family of the same size.<sup>2</sup> In 1996, the Federal poverty level is \$7,740 for a single and \$10,360 for a couple.<sup>3</sup>

A QMB must also meet specified resources standards, namely resources cannot exceed 200 percent of that allowed under SSI. For the QMB program, the limits are \$4,000 for an individual and \$6,000 for a couple. Certain items such as an individual's home and household goods are always excluded from the calculation.

QMB Benefits. Medicaid law requires States to pay Medicare premiums and cost-sharing charges for QMBs, as follows:

Medicare Part B monthly premiums (\$42.50 in 1996). Medicare Part B pays for physicians' services and other medical services. Almost all persons entitled to Medicare Part A are also enrolled in Medicare Part B.

Medicare Part A monthly premium paid by the limited number of aged not automatically entitled to Part A protection. The premium is \$289 in 1996.<sup>4</sup>

Coinsurance and deductibles under Medicare Part A and Part B. This includes the Medicare hospital deductible (\$736 in 1996), the Part B deductible (\$100) and the Part B coinsurance (20 percent of Medicare's approved payment.)

Coinsurance and deductibles that health maintenance organizations (HMOs) and competitive medical plans (CMPs) charge their enrollees. These are in lieu of the Medicare coinsurance and deductibles which would be paid if the individuals were not enrollees of these plans. States, at their option may also pay the HMO and CMP enrollment premiums.

A person entitled to regular Medicaid benefits as well as QMB assistance is entitled to Medicaid payment for Medicare premiums and cost-sharing charges as well as to the full range of Medicaid services otherwise available to them.

Payment of QMB Benefits. Medicaid law requires States to pay Part A and Part B premiums in full for the QMB population. They are also required to pay the requisite deductibles and coinsurance, though the actual amount of required payment has been the subject of some controversy.

State Medicaid programs frequently have lower payment rates for services than those applicable under Medicare. Federal program

<sup>2</sup>The determination of income is made in the same manner as is made for SSI. Individuals with income above the threshold are not permitted to spenddown to meet the eligibility criteria.

<sup>3</sup>The Federal poverty level is published annually (usually in mid-February) in the Federal Register. By law, cost-of-living increases (COLAs) in social security benefits are disregarded in determining QMB eligibility through the month following the month in which the annual update is published. Thus, in most years COLAs are disregarded through March. For QMBs without social security income, the poverty levels are effective as of the date of publication.

<sup>4</sup>Part A coverage is available at a reduced premium to persons who do not have coverage as social security or railroad retirement beneficiaries but who have at least 30 quarters of social security or railroad retirement coverage. The premium for these persons is \$188 in 1996.

guidelines implementing the QMB provision permit States to either (1) pay the full Medicare deductible and coinsurance amounts; or (2) only pay those amounts to the extent that the Medicare provider or supplier has not received the full Medicaid rate for the service. For example, assume Medicare's recognized payment amount for a service is \$100 and Medicaid's recognized amount is \$75. Medicare actually pays \$80 (assuming the beneficiary has met the deductible) leaving \$20 in coinsurance charges. Under the guidelines, Medicaid could pay nothing (since the provider had received more than the full Medicaid rate) or any amount up to \$20 (the full Medicare coinsurance amount).

If the Medicare service is not covered under the State Medicaid program, the State may either pay the full Medicare deductible and coinsurance amounts or alternatively provide for reasonable payments (subject to approval by DHHS).

The Health Care Financing Administration (HCFA) surveyed the States in March 1995, and reported that 29 States were using payment rates below those applicable under Medicare.<sup>5</sup> However, in July 1995, HCFA informed us that the United States Court of Appeals for four judicial circuits had issued decisions which required States in their jurisdictions to pay the full Medicare cost-sharing expenses for QMBs.<sup>6</sup> As a result, 8 of the 29 States were required to change their policies.<sup>7</sup>

According to a telephone conversation with a HCFA official in June 1996, the March 1995 survey is not expected to be updated because HCFA's central office no longer maintains detailed information on State plans. However, the official stated that there have been no subsequent court decisions affecting any additional circuits.

#### *Proposed legislation—H.R. 3507*

The Personal Responsibility and Work Opportunity Act of 1996 (H.R. 3507) includes QMB provisions in the Medicaid Restructuring division. Section 1501(b), "Guaranteed coverage of Medicare premiums and cost-sharing for certain Medicare beneficiaries" mandates States to provide coverage for Medicare cost-sharing assistance to the QMB population.<sup>8</sup> The bill contains language comparable to current law language defining the eligible QMB population and required Medicare cost-sharing.

H.R. 3507 also defines State obligations for cost-sharing assistance for Medicare's coinsurance and deductibles. It specifically defines State liability both in cases where Medicaid payments exceed Medicare payments (which rarely occurs) and where Medicaid payments are less than Medicare payments. The bill provides that

<sup>5</sup> Alabama, Arizona, California, Colorado, District of Columbia, Florida, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin.

<sup>6</sup> The following rulings affect States in the 2d, 3d, 4th, and 11th Judicial Circuits: (1) *New York City Health and Hospitals Corporation v. Perales*, 954 F.2d 854 (2nd Cir. 1992); (2) *Pennsylvania Medical Society v. Snider, et al.*, 29 F.3d 886 (3rd Cir. 1994) No. 93-775; (3) *Haynes Ambulance Service, Inc. v. State of Alabama, et al.*, 36 F.3d 1074 (11th Cir. 1994); and (4) *Rehabilitation Association of Virginia, Inc. v. Kozlowski and Shalala*, 42 F.3d 1444 (4th Cir. 1994).

<sup>7</sup> Alabama, Florida, Maryland, New Jersey, Pennsylvania, Vermont, Virginia, and West Virginia.

<sup>8</sup> Current requirements for the SLMB and QDWI populations are also retained.

nothing in the requirement could be construed as preventing a State from limiting its assistance to the amount (if any) by which the payment amount for the service under its Medicaid plan for non-Medicare beneficiaries exceeded the Medicare payment amount. Further, if Medicare's payment amount exceeded the State's general Medicaid payment amount, the State would have no further obligation. This language is similar to current HCFA policy, though as noted above, State implementation of HCFA policy has been effectively barred in certain judicial circuits.

## APPENDIX D TO TITLE II

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
*Washington, DC, April 19, 1996.*

Hon. WILLIAM J. CLINTON,  
*President, The White House,*  
*Washington, DC.*

DEAR MR. PRESIDENT: We write concerning the ongoing efforts to reform Medicaid and our concern over the Federal medical assistance percentage (FMAP).

As you know, FMAP refers to the Federal share of each State's payments for Medicaid items and services. The FMAP is set annually according to a statutory formula designed to pay a higher percentage to a State with low per capita income relative to the national average for per capita income. No State may have a FMAP lower than 50 percent or higher than 83 percent.

New York has long received only the minimum FMAP which we believe does not adequately account for the actual burden which New York bears in caring for its less fortunate citizens. For example, the current FMAP formula takes into account only per capita income which can be skewed by a few extremely high or low incomes and does not adequately measure a State's fiscal capacity.

In addition, the current formula does not take into account a State's needs. The FMAP formula is based mostly on measures of a State's ability to pay, with less wealthy States currently receiving a greater Federal share. However, ability to pay does not adequately reflect a State's needs. While wealthier States may have more income, they may also have more poverty and/or health care needs. Unfortunately, poverty is also often an accurate indicator of disease because there are a number of diseases stemming from poor nutrition, or unsafe living conditions.

Lastly, the current formula ignores the relative cost of providing health care services by assuming that a dollar buys the same amount of health care in New York as in a poorer State. The FMAP only tangentially measures health needs through the inclusion of transfer payments (e.g. Medicare, Medicaid, and income maintenance); the formula presumes that States with higher needs would have larger transfer payments, but under the current formula they would also have higher per capita income payments and elevated State shares.

We believe that the minimum FMAP should be raised from 50 percent to 60 percent of Medicaid program costs. This change would benefit 24 States including New York.

Reducing New York's required contribution would substantially diminish or eliminate the gross disparity imposed on New York taxpayers compared to the taxpayers of almost 40 other States.

Each year New York sends far more tax dollars to Washington, DC than we receive back in grants or services. There is no reason why New York taxpayers should be forced to spend disproportionately more than most other States in order to qualify for Federal Medicaid assistance. Indeed, some States receive as much as 4 Federal dollars for every State dollar expenditure. Reforming the FMAP formula would correct this inequity.

Thank you in advance for your consideration in this matter.

Sincerely,

NITA LOWEY.  
MAJOR R. OWENS.  
MAURICE D. HINCHEY.  
ELIOT L. ENGEL.  
JOSÉ E. SERRANO.  
THOMAS J. MANTON.  
GARY L. ACKERMAN.  
CHARLES SCHUMER.  
CAROLYN B. MALONEY.  
NYDIA M. VELÁZQUEZ.  
SHERWOOD BOEHLERT.



## APPENDIX E TO TITLE II

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U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 10, 1996.*

Hon. THOMAS J. BLILEY, Jr.,  
*Chairman, Committee on Commerce,  
House of Representatives, Washington, DC*

DEAR MR. CHAIRMAN: At your request, CBO has examined the President's proposal for a per capita cap on Federal Medicaid spending to determine whether the proposal contains an intergovernmental mandate. After a preliminary review, CBO has determined that the proposal does not contain a mandate as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

The main purpose of this proposal is to cap the Federal Government's financial responsibility. However, this limit would not constitute a mandate because States would have the flexibility to offset the loss of Federal funds by reducing their own financial or programmatic responsibilities.

Public Law 104-4 defines a Federal intergovernmental mandate, in part, as: "any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority, if the provision—

“(i)(I) would increase the stringency of conditions of assistance to State, local, or tribal governments under the program; or

“(II) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to State, local, or tribal governments under the program; and

“(ii) the State, local, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the legislation, statute, or regulation.”

If a cap on Federal Medicaid spending was so restrictive that Federal spending was insufficient to cover the Federal Government's matching share of mandatory Medicaid spending, then the cap would create a mandate. In the case of the per capita cap in the President's proposal, however, CBO believes that this situation would not arise in the first 5 years after enactment, because States would have significant flexibility to offset reductions in Federal funding with reductions in optional services and beneficiaries. (Public Law 104-4 requires CBO to evaluate proposals for mandates for the first 5 years that they would be in effect.) Courses of action available to States include eliminating or reducing some optional services, such as prescription drugs or dental services, and

not serving some optional beneficiaries, such as the medically needy or pregnant women and children whose family income is between 133 percent and 185 percent of poverty. These options provide substantial flexibility to States. A frequently cited figure is that 60 percent of Medicaid spending is optional. Even though this flexibility varies dramatically between States, all States have significant flexibility.

In addition to the flexibility provided in current law, the President's proposal would grant States additional flexibility. For example, it would repeal the Boren Amendment and allow States to adopt managed care without a Federal waiver.

If you wish further details on this estimate, we will be pleased to provide them. The staff contact is John Patterson.

Sincerely,

JUNE E. O'NEILL, *Director*.

## APPENDIX F TO TITLE II

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GENERAL ACCOUNTING OFFICE,  
Washington, DC, June 10, 1996.

Hon. THOMAS J. BLILEY, Jr.,  
Chairman, Committee on Commerce,  
House of Representatives.

DEAR MR. CHAIRMAN: Medicaid is the largest Federal program providing financial assistance to State governments. States received over \$80 billion in fiscal year 1995, and the Congressional Budget Office estimates that they will receive \$898.4 billion in Federal funds between fiscal year 1996 and fiscal year 2002. The Congress is now considering alternatives that would slow the growth in Federal Medicaid spending by giving States more flexibility in the administration of the program and by changing the mechanism for allocating Federal assistance among States.

This letter responds to your request for an explanation of the relationship between Federal funding and State funding needs under the current open-ended entitlement program and how it would change under H.R. 3507, being considered by your committee. Under the open-ended entitlement the level of assistance provided to the poor varies from State to State depending on how many people are made eligible under State law and how extensive are the services the State provides. In contrast, under H.R. 3507 the distribution of Federal assistance to States would be much less related to State spending patterns and become more closely related to measures of State funding needs, such as the number of poor, elderly, and disabled.

### *Federal funding not based on State funding needs*

The amount of Federal aid that a State receives under Medicaid is not closely linked to measures of its potential funding needs. In many instances, States with larger numbers of poor and disabled individuals receive less Federal assistance than States with both larger numbers of those in need and weaker tax bases. New York, for example, has fewer poor people than California yet it received \$12.5 billion in Federal assistance in fiscal year 1995 while California, with more people in need, received less than \$9.2 billion that year. When expressed in terms of funding per person in poverty, New York received 60 percent more than California; more than \$4,350 per person compared with less than \$1,725 per person in California.

Because the Federal Government matches whatever States spend on eligible services, States with the most generous eligibility requirements, that offer more extensive services, and that provide higher provider reimbursement rates receive more Federal funding. Consequently, States with greater numbers of needy individuals

can receive less Federal aid because of their more restrictive eligibility rules and because they provide fewer services.

*Most Federal programs provide funding based on State needs*

The current linkage between State needs and the amount of Federal assistance a State receives under Medicaid does not reflect how most Federal grant programs are designed. Aside from the major entitlement programs (Medicaid, Aid to Families With Dependent Children, and Foster Care), most other Federal grant programs distribute Federal assistance on the basis of need measures (for example, high risk population groups such as the poor, children, or the elderly) rather than on the basis of State spending patterns.

A recent example of needs-based targeting is the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act reauthorized by Congress earlier this year. The Senate Labor and Human Resources Committee and your committee revised the formula used to distribute CARE Act funds to States and metropolitan areas to improve the needs-based targeting of that program. The new system would strengthen the relationship between Federal funding and people in need by more closely linking the amount of Federal aid a State or metropolitan area receives with the number of people with acquired immunodeficiency syndrome (AIDS).

Other examples of need-based targeting include the Chapter 1 program for the Educationally Disadvantaged and the Maternal and Child Health program, which target Federal funding based on the number of children in poverty. Similarly, the Airport Improvement program provides funding based on the number of passengers using an airport and the Older Americans Act allocates Federal funding based on the number of elderly. Based on work currently underway, it appears that over 90 percent of Federal formula grant programs target funding based on measures of State need.

*The Medicaid restructuring plan would gradually shift Federal funding to a needs-based system*

A restructured Medicaid program under provisions in H.R. 3507 would gradually realign Federal funding over a number of years so that it will be more closely related to State needs rather than State spending patterns. This would be accomplished by linking Federal allocations to the number of people in poverty and giving greater weight to the number of elderly and disabled for whom care is more expensive. Additional adjustments would be made to account for cross-state differences in the cost of health care, and low-income States' matching rates would continue to be higher.

Shifting to a needs-based funding system will be accomplished by allowing funding for States like California, whose Federal funding is low in relation to the number of people in need, to grow at above average rates. Conversely, funding for States like New York would grow at slower rates until funding for all States is brought into line with State needs.

If you have any questions regarding this letter or if we can be of further assistance, please call Jerry Fastrup, Assistant Director, or me.

Sincerely yours,

WILLIAM J. SCANLON,  
*Director, Health Systems Issues.*

## APPENDIX G TO TITLE II

NATIONAL GOVERNORS ASSOCIATION,  
*Washington, DC.*

### C-27. SHORT-TERM MEDICAID POLICY

#### 27.1 PREFACE

The Nation's Governors recognize that rapidly escalating health care costs in the face of the increasing need for health care access is the essence of the health care costs that confronts our Nation. The Governors are aware of the varied and complex factors that must be dealt with if we are to achieve a solution to this crises.

Currently, 31 States are struggling with budget shortfalls. A significant part of the fiscal pressure on States is coming from increased costs in the Medicaid program. In 1980, Medicaid spending accounted for 9 percent of States budgets; in 1990, it accounted for nearly 14 percent of all State spending.

The increased costs of Medicaid not only represent the generally inflated cost of health care experienced by all purchasers, but are exacerbated by 4 years of Medicaid mandates.

States must have some immediate relief from the real and pressing problems presented by the Medicaid program if they are to move forward on long-term solutions. Therefore, the Governors call on Congress and the administration to work with us to immediately make the following changes to the Medicaid program.

Congress should delay the mandated implementation of the 1990 Medicaid mandates for 2 years. This will give Federal and State governments time to assess the depth of the recession and the opportunity to develop long-term solutions for the restructuring of the Medicaid program. Accountability based upon results is a better test of State performance than strict compliance with mandated procedures. In return for flexibility, the Governors seek to work with the administration and Congress to develop State-specific mutually acceptable agreements to measure accountability.

States must not be expected to implement any Medicaid program changes until the Health Care Financing Administration (HCFA) has published final regulations to guide program administration.

States must be allowed to maintain their complete authority to raise funds to match Federal Medicaid dollars without restriction from the Federal Government.

To promote cost control and efficiency, States should be encouraged to continue innovations in provider payment methods. Though Medicare and most private payers have moved away from cost based reimbursement, Federal legislation has mandated that certain Medicaid providers be paid on the basis of costs. In operating out Medicaid programs, States should not be denied costs control

options available to the Federal Government in operating the Medicare program.

In addition, with respect to three particularly troublesome mandates over the last 4 years, the Governors call upon Congress and the administration to make the following specific program-matic changes.

#### 27.2 QUALIFIED MEDICARE BENEFICIARIES (OMB'S)

Congress should assume full financial responsibility for all low-income Medicare beneficiaries who are not otherwise Medicaid-eligible. Since the passage of the Medicare Catastrophic legislation in 1988, the Federal Government has increasingly passed on to the States the responsibility to protect low-income Medicare beneficiaries.

#### 27.3 NURSING HOME REFORM

States should be considered in compliance with the law if a comparable quality assurance program is in place or developed. In the Omnibus Reconciliation Act of 1987, Congress mandated extensive new quality assurance measures for the Medicaid nursing home program. The statutory language permits limited State flexibility and puts Congress in the position of micro-managing the program.

#### 27.4 EARLY PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT)

In "technical" amendments to the EPSDT program legislated in 1989, Congress added major costs to this program. Therefore, the Governors propose two technical amendments to the 1989 law to:

With regard to screening services, clarify that States have the authority to specify qualified screening providers and that States are permitted to insist that such a provider can be required to provide all screening services.

Give States the authority to provide only those services identified in a screen that are currently in a State's Medicaid program.

While these changes clearly will not resolve the Nation's long-term struggle to restructure the Medicaid program, they will provide immediate and sensible relief in dire economic times. These changes also would mark the beginning of a new and real partnership between the Federal Government and State governments over the design and implementation of the Medicaid program.

## **TITLE III—COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES**

### **SEC. 3001. SHORT TITLE.**

This title may be cited as the “Personal Responsibility and Work Opportunity Act of 1996”.

### **SEC. 3002. TABLE OF CONTENTS.**

The table of contents of this title is as follows:

#### **TITLE III—COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES**

Sec. 3001. Short title.

Sec. 3002. Table of contents.

#### **Subtitle A—Work Requirements**

Sec. 3101. Replacement of the JOBS program with mandatory work requirements.

#### **Subtitle B—Child and Family Services Block Grant**

Sec. 3201. Child and Family Services Block Grant.

Sec. 3202. Reauthorizations.

Sec. 3203. Repeals.

#### **Subtitle C—Child Care**

Sec. 3301. Short title and references.

Sec. 3302. Goals.

Sec. 3303. Authorization of appropriations and entitlement authority.

Sec. 3304. Lead agency.

Sec. 3305. Application and plan.

Sec. 3306. Limitation on State allotments.

Sec. 3307. Activities to improve the quality of child care.

Sec. 3308. Repeal of early childhood development and before- and after-school care requirement.

Sec. 3309. Administration and enforcement.

Sec. 3310. Payments.

Sec. 3311. Annual report and audits.

Sec. 3312. Report by the Secretary.

Sec. 3313. Allotments.

Sec. 3314. Definitions.

Sec. 3315. Repeals.

Sec. 3316. Effective date.

#### **Subtitle D—Child Nutrition Programs**

#### **CHAPTER 1—NATIONAL SCHOOL LUNCH ACT**

Sec. 3401. State disbursement to schools.

Sec. 3402. Nutritional and other program requirements.

Sec. 3403. Free and reduced price policy statement.

Sec. 3404. Special assistance.

Sec. 3405. Miscellaneous provisions and definitions.

Sec. 3406. Summer food service program for children.

Sec. 3407. Commodity distribution.

Sec. 3408. Child care food program.

Sec. 3409. Pilot projects.

Sec. 3410. Reduction of paperwork.

Sec. 3411. Information on income eligibility.



- Sec. 3412. Nutrition guidance for child nutrition programs.  
 Sec. 3413. Information clearinghouse.

#### CHAPTER 2—CHILD NUTRITION ACT OF 1966

- Sec. 3421. Special milk program.  
 Sec. 3422. Free and reduced price policy statement.  
 Sec. 3423. School breakfast program authorization.  
 Sec. 3424. State administrative expenses.  
 Sec. 3425. Regulations.  
 Sec. 3426. Prohibitions.  
 Sec. 3427. Miscellaneous provisions and definitions.  
 Sec. 3428. Accounts and records.  
 Sec. 3429. Special supplemental nutrition program for women, infants, and children.  
 Sec. 3430. Cash grants for nutrition education.  
 Sec. 3431. Nutrition education and training.

#### CHAPTER 3—MISCELLANEOUS PROVISIONS

- Sec. 3441. Coordination of school lunch, school breakfast, and summer food service programs.

#### Subtitle E—Related Provisions

- Sec. 3501. Requirement that data relating to the incidence of poverty in the united states be published at least every 2 years.  
 Sec. 3502. Sense of the Congress.  
 Sec. 3503. Legislative accountability.

## Subtitle A—Work Requirements

### SEC. 3101. REPLACEMENT OF THE JOBS PROGRAM WITH MANDATORY WORK REQUIREMENTS.

(a) IN GENERAL.—Part F of title IV of the Social Security Act (42 U.S.C. 681–687) is amended to read as follows:

### “PART F—MANDATORY WORK REQUIREMENTS

#### “SEC. 481. MANDATORY WORK REQUIREMENTS.

“(a) PARTICIPATION RATE REQUIREMENTS.—

“(1) ALL FAMILIES.—A State that is operating a program under part A 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 operated under part A:

<b>“If the fiscal year is:</b>	<b>The minimum participation rate is:</b>
1996 .....	20
1997 .....	25
1998 .....	30
1999 .....	35
2000 .....	40
2001 .....	45
2002 or thereafter .....	50.

“(2) 2-PARENT FAMILIES.—A State that is operating a program under part A 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 operated under part A:

<b>"If the fiscal year is:</b>	<b>The minimum participation rate is:</b>
1996 .....	50
1997 .....	75
1998 .....	75
1999 or thereafter .....	90.

**"(b) CALCULATION OF PARTICIPATION RATES.—**

**"(1) ALL FAMILIES.—**

**"(A) AVERAGE MONTHLY RATE.—**For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

**"(B) MONTHLY PARTICIPATION RATES.—**The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

**"(i)** the number of families receiving assistance under the State program operated under part A 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.—**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—

**"(A)** the number of families receiving assistance during the fiscal year under the State plan approved under part A is less than

“(B) the number of families that received aid under the State plan approved under part A 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.

“(4) STATE OPTION FOR PARTICIPATION REQUIREMENT EXEMPTIONS.—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).

“(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):

<b>If the month is in fiscal year:</b>	<b>The minimum average number of hours per week is:</b>
1996 .....	20
1997 .....	20
1998 .....	20
1999 .....	25
2000 .....	30
2001 .....	30
2002 .....	35
2003 or thereafter .....	35.

“(2) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(B)(i), an adult is engaged in work for a month in a fiscal year if the adult is making progress in 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).

“(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 is above the national average, 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 received a high school diploma or a certificate of high school equivalency; and

“(11) satisfactory attendance at secondary school or high school equivalency program, in the case of a recipient who has not completed secondary school.

“(e) SUPPLEMENTAL GRANT FOR OPERATION OF WORK PROGRAM.—

“(1) APPLICATION REQUIREMENTS.—An eligible State may submit to the Secretary an application for additional funds to meet the requirements of this section with respect to a fiscal year if the Secretary determines that—

“(A) the total expenditures of the State to meet such requirements for the fiscal year exceed the total expenditures of the State during fiscal year 1994 to carry out part F (as in effect on September 30, 1994);

“(B) the work programs of the State under this section are coordinated with the job training programs established

by title II of the Job Training Partnership Act, or (if such title is repealed by the Consolidated and Reformed Education, Employment, and Rehabilitation Systems Act) the Consolidated and Reformed Education, Employment, and Rehabilitation Systems Act; and

“(C) the State needs additional funds to meet such requirements or certifies that it intends to exceed such requirements.

“(2) GRANTS.—The Secretary may make a grant to any eligible State which submits an application in accordance with paragraph (1) for a fiscal year in an amount equal to the Federal medical assistance percentage of the amount (if any) by which the total expenditures of the State to meet or exceed the requirements of this section for the fiscal year exceeds the total expenditures of the State during fiscal year 1994 to carry out part F (as in effect on September 30, 1994).

“(3) REGULATIONS.—The Secretary shall issue regulations providing for the equitable distribution of funds under this subsection.

“(4) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—There are authorized to be appropriated for grants under this subsection \$3,000,000,000 for fiscal year 1999.

“(B) AVAILABILITY.—Amounts appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

“(f) PENALTIES.—

“(1) AGAINST INDIVIDUALS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), if an adult in a family receiving assistance under the State program operated under part A refuses to engage in work required in accordance with this section, the State shall—

“(i) 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

“(ii) terminate such assistance,

subject to such good cause and other exceptions as the State may establish.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), a State may not reduce or terminate assistance under the State program operated under part A 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.

“(2) AGAINST STATES.—

“(A) IN GENERAL.—If the Secretary determines that a State that is operating a program under part A for a fiscal year has failed to comply with this section for the fiscal year, the Secretary shall reduce the total amount otherwise payable to the State under section 403 for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of such otherwise payable amount.

“(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) based on the degree of noncompliance.

“(g) NONDISPLACEMENT IN WORK ACTIVITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), an adult in a family receiving assistance under a State program operated under part A 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 adult in a work activity described in subsection (d) which is funded, in whole or in part, by funds provided by the Federal Government shall be employed or assigned—

“(A) when any other individual is on layoff from the same or any substantially equivalent job; or

“(B) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult described in paragraph (1).

“(3) 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.

“(h) SENSE OF THE CONGRESS.—It is the sense of the Congress that in complying with this section, each State that operates a program under part A 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.

“(i) 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. 482. INDIVIDUAL RESPONSIBILITY PLANS.**

“(a) ASSESSMENT.—The State agency responsible for administering the State program funded under part A shall make an initial assessment of the skills, prior work experience, and employability of each recipient of assistance under the program who—

“(1) has attained 18 years of age; or

“(2) has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

“(b) CONTENTS OF PLANS.—

“(1) IN GENERAL.—On the basis of the assessment made under subsection (a) with respect to an individual, the State agency, in consultation with the individual, shall develop an individual responsibility plan for the individual, which—

“(A) shall provide that participation by the individual in job search activities shall be a condition of eligibility for assistance under the State program funded under part A, except during any period for which the individual is employed full-time in an unsubsidized job in the private sector;

“(B) sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;

“(C) sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;

“(D) to the greatest extent possible shall be designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;

“(E) shall describe the services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and

“(F) at the option of the State, may require the individual to undergo appropriate substance abuse treatment.

“(2) TIMING.—The State agency shall comply with paragraph (1) with respect to an individual—

“(A) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of aid under the State plan approved under part A (as in effect immediately before such effective date); or

“(B) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.

“(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—The State shall inform all applicants for and recipients of assistance under the State program funded under part A of all available services under the program for which they are eligible.

“(d) PENALTY FOR NONCOMPLIANCE BY INDIVIDUAL.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the State shall reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State program funded under part A to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

“(2) EXCEPTION.—A State may not terminate the provision of assistance to an individual under the State program funded under part A, or reduce the amount of assistance to be provided to an individual under the program, if the State has failed to provide to the individual the services referred to in subsection (b)(1)(E) that are described in the individual responsibility plan for the individual.

“(e) The exercise of the authority of this section shall be with the sole discretion of the State.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 402(a)(9)(A) of the Social Security Act (42 U.S.C. 602(a)(9)(A)) is amended by striking “(including activities under part F)”.

(2) Section 402(a) of such Act (42 U.S.C. 602(a)) is amended by striking paragraph (19).

(3) Section 402(a)(44)(A) of such Act (42 U.S.C. 602(a)(44)(A)) is amended by striking “, part D, and part F” and inserting “and part D”.

(4) Section 403 of such Act (42 U.S.C. 603) is amended by striking subsections (k) and (l), except that subparagraph (A) of such section 403(l)(3) shall remain in effect for purposes of applying any reduction in payment rates required by such subparagraph for any of the fiscal years specified in such subparagraph.

(5) Section 407(b)(1)(B) of such Act (42 U.S.C. 607(b)(1)(B)) is amended—

(A) by striking clauses (i) and (v) and redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively;

(B) by adding “and” at the end of clause (ii) (as so redesignated); and

(C) by striking “; and” at the end of clause (iii) (as so redesignated) and inserting a period.

(6) Section 407(b)(2)(B)(ii)(I) of such Act (42 U.S.C. 607(b)(2)(B)(ii)(I)) is amended by striking “(including any activity authorized under section 402(a)(19) or under part F)”.

(7) Section 407(b)(2) of such Act (42 U.S.C. 607(b)(2)) is amended by striking subparagraph (C).

(8) Section 407(c) of such Act (42 U.S.C. 607(c)) is amended—

(A) by striking “(A) where” and inserting “where”; and

(B) by striking “, and (B)” and all that follows through “part F”.

(9) Section 407(d)(1)(A) of such Act (42 U.S.C. 607(d)(1)(A)) is amended by striking “, or in which such individual participated in a program under part F”.

(10) Section 407(e) of such Act (42 U.S.C. 607(e)) is amended—

(A) in paragraph (1)—

(i) by striking “in participating in a program under part F and”; and

(ii) by striking “participate in or”; and

(B) in paragraph (2), by striking “both part F and”.



(11) Section 417 of such Act (42 U.S.C. 617) is amended by striking “, part D, and part F” and inserting “and part D”.

(12) Section 471(a)(8)(A) of such Act (42 U.S.C. 671(a)(8)(A)) is amended by striking “(including activities under part F)”.

(13) Section 1108 of such Act (42 U.S.C. 1308) is amended—

(A) in subsection (a), by striking “or, in the case of part A of title IV, section 403(k)”;

(B) in subsection (d), by striking “(exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies)”.

(14) Section 1115(b)(2)(A) of such Act (42 U.S.C. 1315(b)(2)(A)) is amended by striking “, and 402(a)(19) (relating to the work incentive program)”.

(15) Section 1902(a)(10)(A)(i)(I) of such Act (42 U.S.C. 1396a(a)(19)(A)(i)(I)) is amended by striking “, or considered by the State to be receiving such aid as authorized under section 482(e)(6)”.

(16) Section 51(c)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraph (B).

## **Subtitle B—Child and Family Services Block Grant**

### **SEC. 3201. CHILD AND FAMILY SERVICES BLOCK GRANT.**

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended to read as follows:

#### **“SECTION 1. SHORT TITLE.**

“This Act may be cited as the ‘Child and Family Services Block Grant Act of 1996’.

#### **“SEC. 2. FINDINGS.**

“The Congress finds the following:

“(1) Each year, close to 1,000,000 American children are victims of abuse and neglect.

“(2) Many of these children and their families fail to receive adequate protection or treatment.

“(3) The problem of child abuse and neglect requires a comprehensive approach that—

“(A) integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;

“(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;

“(C) emphasizes the need for abuse and neglect prevention, assessment, investigation, and treatment at the neighborhood level;

“(D) ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and

“(E) is sensitive to ethnic and cultural diversity.

“(4) The child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social reintegration in an environment that fosters the health, safety, self-respect, and dignity of the child.

“(5) The Federal Government should provide leadership and assist communities in their child and family protection efforts by—

“(A) generating and sharing knowledge relevant to child and family protection, including the development of models for service delivery;

“(B) strengthening the capacity of States to assist communities;

“(C) helping communities to carry out their child and family protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

“(D) providing leadership to end the abuse and neglect of the Nation’s children and youth.

### “SEC. 3. PURPOSES.

“The purposes of this Act are the following:

“(1) To assist each State in improving the child protective service systems of such State by—

“(A) improving risk and safety assessment tools and protocols;

“(B) developing, strengthening, and facilitating training opportunities for individuals who are mandated to report child abuse or neglect or otherwise overseeing, investigating, prosecuting, or providing services to children and families who are at risk of abusing or neglecting their children; and

“(C) developing, implementing, or operating information, education, training, or other programs designed to assist and provide services for families of disabled infants with life-threatening conditions.

“(2) To support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that are culturally competent and that coordinate resources among existing education, vocational rehabilitation, disability, respite, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State.

“(3) To facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs, including disabled infants with life-threatening conditions, by—

“(A) promoting model adoption legislation and procedures in the States and territories of the United States in

order to eliminate jurisdictional and legal obstacles to adoption;

“(B) providing a mechanism for the Department of Health and Human Services to—

“(i) promote quality standards for adoption services, preplacement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

“(ii) maintain a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and

“(iii) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan; and

“(C) facilitating the identification and recruitment of foster and adoptive families that can meet children’s needs.

“(4) To respond to the needs of children, in particular those who are drug exposed or afflicted with Acquired Immune Deficiency Syndrome (AIDS), by supporting activities aimed at preventing the abandonment of children, providing support to children and their families, and facilitating the recruitment and training of health and social service personnel.

“(5) To carry out any other activities as the Secretary determines are consistent with this Act.

#### **“SEC. 4. DEFINITIONS.**

“As used in this Act:

“(1) CHILD.—The term ‘child’ means a person who has not attained the lesser of—

“(A) the age of 18; or

“(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides.

“(2) CHILD ABUSE AND NEGLECT.—The term ‘child abuse and neglect’ means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.

“(3) FAMILY RESOURCE AND SUPPORT PROGRAMS.—The term ‘family resource and support program’ means a community-based, prevention-focused entity that—

“(A) provides, through direct service, the core services required under this Act, including—

“(i) parent education, support and leadership services, together with services characterized by relationships between parents and professionals that are based on equality and respect, and designed to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

“(ii) services to facilitate the ability of parents to serve as resources to one another (such as through mutual support and parent self-help groups);

“(iii) early developmental screening of children to assess any needs of children, and to identify types of support that may be provided;

“(iv) outreach services provided through voluntary home visits and other methods to assist parents in becoming aware of and able to participate in family resources and support program activities;

“(v) community and social services to assist families in obtaining community resources; and

“(vi) followup services;

“(B) provides, or arranges for the provision of, other core services through contracts or agreements with other local agencies; and

“(C) provides access to optional services, directly or by contract, purchase of service, or interagency agreement, including—

“(i) child care, early childhood development and early intervention services;

“(ii) self-sufficiency and life management skills training;

“(iii) education services, such as scholastic tutoring, literacy training, and General Educational Degree services;

“(iv) job readiness skills;

“(v) child abuse and neglect prevention activities;

“(vi) services that families with children with disabilities or special needs may require;

“(vii) community and social service referral;

“(viii) peer counseling;

“(ix) referral for substance abuse counseling and treatment; and

“(x) help line services.

“(4) INDIAN TRIBE AND TRIBAL ORGANIZATION.—The terms ‘Indian tribe’ and ‘tribal organization’ shall have the same meanings given such terms in subsections (e) and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e) and (l)).

“(5) RESPITE SERVICES.—The term ‘respite services’ means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

“(A) are in danger of abuse or neglect;

“(B) have experienced abuse or neglect; or

“(C) have disabilities, chronic, or terminal illnesses.

Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(7) SEXUAL ABUSE.—The term ‘sexual abuse’ includes—

“(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

“(B) the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children.

“(8) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

“(9) WITHHOLDING OF MEDICALLY INDICATED TREATMENT.—The term ‘withholding of medically indicated treatment’ means the failure to respond to the infant’s life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment—

“(A) the infant is chronically and irreversibly comatose;

“(B) the provision of such treatment would—

“(i) merely prolong dying;

“(ii) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or

“(iii) otherwise be futile in terms of the survival of the infant; or

“(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

## **“TITLE I—GENERAL BLOCK GRANT**

### **“SEC. 101. CHILD AND FAMILY SERVICES BLOCK GRANTS.**

“(a) ELIGIBILITY.—The Secretary shall award grants to eligible States that file a State plan that is approved under section 102 and that otherwise meet the eligibility requirements for grants under this title.

“(b) AMOUNT OF GRANT.—The amount of a grant made to each State under subsection (a) for a fiscal year shall be based on the population of children under the age of 18 residing in each State that applies for a grant under this section.

“(c) USE OF AMOUNTS.—Amounts received by a State under a grant awarded under subsection (a) shall be used to carry out the purposes described in section 3.

### **“SEC. 102. ELIGIBLE STATES.**

“(a) IN GENERAL.—As used in this title, the term ‘eligible State’ means a State that has submitted to the Secretary, not later than

October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:

“(1) **OUTLINE OF CHILD PROTECTION PROGRAM.**—A written document that outlines the activities the State intends to conduct to achieve the purpose of this title, including the procedures to be used for—

“(A) receiving and assessing reports of child abuse or neglect;

“(B) investigating such reports;

“(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;

“(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

“(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;

“(F) protecting children in foster care;

“(G) promoting timely adoptions;

“(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards; and

“(I) providing services to individuals, families, or communities, either directly or through referral, that are aimed at preventing the occurrence of child abuse and neglect.

“(2) **CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.**—A certification that the State has in effect laws that require public officials and other professionals to report, in good faith, actual or suspected instances of child abuse or neglect.

“(3) **CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.**—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.

“(4) **CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.**—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.

“(5) **CERTIFICATION OF PROVISIONS FOR APPOINTMENT OF GUARDIAN AD LITEM.**—A certification that the State has in effect laws and procedures requiring the appointment of a guardian ad litem in every case involving an abused or neglected child which results in a judicial proceeding.

“(6) CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.—A certification that the State has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

“(7) CERTIFICATION OF PROVISIONS AND PROCEDURES FOR EXPUNGEMENT OF CERTAIN RECORDS.—A certification that the State has in effect laws and procedures requiring the facilitation of the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false.

“(8) CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.

“(9) CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.

“(10) CERTIFICATION OF STATE PROCEDURES TO RESPOND TO REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

“(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

“(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

“(C) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

“(11) IDENTIFICATION OF CHILD PROTECTION GOALS.—The quantitative goals of the State child protection program.

“(12) CERTIFICATION OF CHILD PROTECTION STANDARDS.—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—

“(A) has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

“(i) the appropriateness of, and necessity for, the foster care placement;

“(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

“(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

“(B) is operating, to the satisfaction of the Secretary—

“(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

“(ii) a case review system for each child receiving foster care under the supervision of the State;

“(iii) a service program designed to help children—

“(I) where appropriate, return to families from which they have been removed; or

“(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

“(iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and

“(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

“(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.

“(13) CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.—A certification that the State in each case will—

“(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child's home, and to make it possible for the child to return home; and



“(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children where the State makes a determination that the child may safely remain with the family.

“(14) CERTIFICATION OF CONFIDENTIALITY AND REQUIREMENTS FOR INFORMATION DISCLOSURE.—

“(A) IN GENERAL.—A certification that the State has in effect and operational—

“(i) requirements ensuring that reports and records made and maintained pursuant to the purposes of this part shall only be made available to—

“(I) individuals who are the subject of the report;

“(II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out their responsibilities under law to protect children from abuse and neglect;

“(III) child abuse citizen review panels;

“(IV) child fatality review panels;

“(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

“(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose; and

“(ii) provisions that allow for public disclosure of the findings or information about cases of child abuse or neglect that have resulted in a child fatality or near fatality.

“(B) LIMITATION.—Disclosures made pursuant to clause (i) or (ii) shall not include the identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect.

“(C) DEFINITION.—For purposes of this paragraph, the term ‘near fatality’ means an act that, as certified by a physician, places the child in serious or critical condition.

“(b) DETERMINATIONS.—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a). The Secretary may not require a State to include in such a plan any material not described in subsection (a).

**“SEC. 103. DATA COLLECTION AND REPORTING.**

“(a) NATIONAL CHILD ABUSE AND NEGLECT DATA SYSTEM.—The Secretary shall establish a national data collection and analysis program—

“(1) which, to the extent practicable, coordinates existing State child abuse and neglect reports and which shall include—

“(A) standardized data on substantiated, as well as false, unfounded, or unsubstantiated reports; and

“(B) information on the number of deaths due to child abuse and neglect; and

“(2) which shall collect, compile, analyze, and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case-specific and integrated with other case-based foster care and adoption data collected by the Secretary.

“(b) ADOPTION AND FOSTER CARE AND ANALYSIS AND REPORTING SYSTEMS.—The Secretary shall implement a system for the collection of data relating to adoption and foster care in the United States. Such data collection system shall—

“(1) avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;

“(2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;

“(3) provide comprehensive national information with respect to—

“(A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents;

“(B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care);

“(C) the number and characteristics of—

“(i) children placed in or removed from foster care;

“(ii) children adopted or with respect to whom adoptions have been terminated; and

“(iii) children placed in foster care outside the State which has placement and care responsibility; and

“(D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided; and

“(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.

“(c) ADDITIONAL INFORMATION.—The Secretary may require the provision of additional information under the data collection system established under subsection (b) if the addition of such information is agreed to by a majority of the States.

“(d) ANNUAL REPORT BY THE SECRETARY.—Within 6 months after the end of each fiscal year, the Secretary shall prepare a report based on information provided by the States for the fiscal year pursuant to this section, and shall make the report and such information available to the Congress and the public.

## **“TITLE II—RESEARCH, DEMONSTRATIONS, TRAINING, AND TECHNICAL ASSISTANCE**

### **“SEC. 201. RESEARCH GRANTS.**

“(a) **IN GENERAL.**—The Secretary, in consultation with appropriate Federal officials and recognized experts in the field, shall award grants or contracts for the conduct of research in accordance with subsection (b).

“(b) **RESEARCH.**—Research projects to be conducted using amounts received under this section—

“(1) shall be designed to provide information to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of any such research conducted under a project being field initiated;

“(2) shall at a minimum, focus on—

“(A) the nature and scope of child abuse and neglect;

“(B) the causes, prevention, assessment, identification, treatment, cultural and socioeconomic distinctions, and the consequences of child abuse and neglect;

“(C) appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse; and

“(D) the national incidence of child abuse and neglect, including—

“(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;

“(ii) the incidence of substantiated and unsubstantiated reported child abuse cases;

“(iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;

“(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;

“(v) the extent to which the lack of adequate resources and the lack of adequate training of reporters have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;

“(vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;

“(vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;

“(viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care;

“(ix) the incidence and outcomes of abuse allegations reported within the context of divorce, custody,

or other family court proceedings, and the interaction between this venue and the child protective services system; and

“(x) the cases of children reunited with their families or receiving family preservation services that result in subsequent substantiated reports of child abuse and neglect, including the death of the child; and

“(3) may include the appointment of an advisory board to—

“(A) provide recommendations on coordinating Federal, State, and local child abuse and neglect activities at the State level with similar activities at the State and local level pertaining to family violence prevention;

“(B) consider specific modifications needed in State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of abuse or neglect which place a child in danger; and

“(C) provide recommendations for modifications needed to facilitate coordinated national and Statewide data collection with respect to child protection and child welfare.

**“SEC. 202. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.**

“(a) ESTABLISHMENT.—The Secretary shall, through the Department of Health and Human Services, or by one or more contracts of not less than 3 years duration provided through a competition, establish a national clearinghouse for information relating to child abuse.

“(b) FUNCTIONS.—The Secretary shall, through the clearinghouse established by subsection (a)—

“(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect;

“(2) maintain and disseminate information relating to—

“(A) the incidence of cases of child abuse and neglect in the United States;

“(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 (as such section was in effect on the day before the date of enactment of this Act); and

“(C) the incidence of any such cases related to alcohol or drug abuse;

“(3) disseminate information related to data collected and reported by States pursuant to section 103;

“(4) compile, analyze, and publish a summary of the research conducted under section 201; and

“(5) solicit public comment on the components of such clearinghouse.

**“SEC. 203. GRANTS FOR DEMONSTRATION PROJECTS.**

“(a) **AWARDING OF GENERAL GRANTS.**—The Secretary may make grants to, and enter into contracts with, public and nonprofit private agencies or organizations (or combinations of such agencies or organizations) for the purpose of developing, implementing, and operating time limited, demonstration programs and projects for the following purposes:

“(1) **INNOVATIVE PROGRAMS AND PROJECTS.**—The Secretary may award grants to public agencies that demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective service agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that—

“(A) accepts, screens and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program or project;

“(B) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

“(C) provides further investigation and intensive intervention where the child’s safety is in jeopardy.

“(2) **KINSHIP CARE PROGRAMS AND PROJECTS.**—The Secretary may award grants to public entities to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where, to the maximum extent practicable, such relatives comply with relevant State child protection standards.

“(3) **ADOPTION OPPORTUNITIES.**—The Secretary may award grants to public entities to assist such entities in developing or implementing programs to expand opportunities for the adoption of children with special needs.

“(4) **FAMILY RESOURCE CENTERS.**—The Secretary may award grants to public or nonprofit private entities to provide for the establishment of family resource programs and support services that—

“(A) develop, expand, and enhance statewide networks of community-based, prevention-focused centers, programs, or services that provide comprehensive support for families;

“(B) promote the development of parental competencies and capacities in order to increase family stability;

“(C) support the additional needs of families with children with disabilities;

“(D) foster the development of a continuum of preventive services for children and families through State and community-based collaborations and partnerships (both public and private); and

“(E) maximize funding for the financing, planning, community mobilization, collaboration, assessment, information and referral, startup, training and technical assistance, information management, reporting, and evaluation costs for establishing, operating, or expanding a statewide network of community-based, prevention-focused family resource and support services.

“(5) OTHER INNOVATIVE PROGRAMS.—The Secretary may award grants to public or private nonprofit organizations to assist such entities in developing or implementing innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect (such as Parents Anonymous).

“(b) GRANTS FOR ABANDONED INFANT PROGRAMS.—The Secretary may award grants to public and nonprofit private entities to assist such entities in developing or implementing procedures—

“(1) to prevent the abandonment of infants and young children, including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child;

“(2) to identify and address the needs of abandoned infants and young children;

“(3) to assist abandoned infants and young children to reside with their natural families or in foster care, as appropriate;

“(4) to recruit, train, and retain foster families for abandoned infants and young children;

“(5) to carry out residential care programs for abandoned infants and young children who are unable to reside with their families or to be placed in foster care;

“(6) to carry out programs of respite care for families and foster families of infants and young children; and

“(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children.

“(c) EVALUATION.—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

#### “SEC. 204. TECHNICAL ASSISTANCE.

“(a) CHILD ABUSE AND NEGLECT.—

“(1) IN GENERAL.—The Secretary shall provide technical assistance under this title to States to assist such States in planning, improving, developing, and carrying out programs and activities relating to the prevention, assessment identification, and treatment of child abuse and neglect.

“(2) EVALUATION.—Technical assistance provided under paragraph (1) may include an evaluation or identification of—

“(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

“(B) ways to mitigate psychological trauma to the child victim; and

“(C) effective programs carried out by the States under this Act.

“(b) **ADOPTION OPPORTUNITIES.**—The Secretary shall provide, directly or by grant to or contract with public or private nonprofit agencies or organizations—

“(1) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

“(2) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.

**“SEC. 205. TRAINING RESOURCES.**

“(a) **TRAINING PROGRAMS.**—The Secretary may award grants to public or private nonprofit organizations—

“(1) for the training of professional and paraprofessional personnel in the fields of medicine, law, education, law enforcement, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse;

“(2) to provide culturally specific instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with disabilities; and

“(3) to improve the recruitment, selection, and training of volunteers serving in private and public nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally.

“(b) **DISSEMINATION OF INFORMATION.**—The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—

“(1) individuals who are engaged, or who intend to engage, in the prevention, identification, assessment, and treatment of child abuse and neglect; and

“(2) appropriate State and local officials, including prosecutors, to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse.

**“SEC. 206. APPLICATIONS AND AMOUNTS OF GRANTS.**

“(a) **REQUIREMENT OF APPLICATION.**—The Secretary may not make a grant to a State or other entity under this title unless—

“(1) an application for the grant is submitted to the Secretary;

“(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

“(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

“(b) AMOUNT OF GRANT.—The Secretary shall determine the amount of a grant to be awarded under this title.

**“SEC. 207. PEER REVIEW FOR GRANTS.**

“(a) ESTABLISHMENT OF PEER REVIEW PROCESS.—

“(1) IN GENERAL.—The Secretary shall, in consultation with experts in the field and other Federal agencies, establish a formal, rigorous, and meritorious peer review process for purposes of evaluating and reviewing applications for grants under this title and determining the relative merits of the projects for which such assistance is requested. The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect.

“(2) REQUIREMENTS FOR MEMBERS.—In establishing the process required by paragraph (1), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Administration for Children and Families. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this title, but may not meet less than once a year. The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.

“(b) REVIEW OF APPLICATIONS FOR ASSISTANCE.—Each peer review panel established under subsection (a)(1) that reviews any application for a grant shall—

“(1) determine and evaluate the merit of each project described in such application;

“(2) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

“(3) make recommendations to the Secretary concerning whether the application for the project shall be approved.

The Secretary shall award grants under this title on the basis of competitive review.

“(c) NOTICE OF APPROVAL.—

“(1) IN GENERAL.—The Secretary shall provide grants under this title from among the projects which the peer review panels established under subsection (a)(1) have determined to have merit.

“(2) REQUIREMENT OF EXPLANATION.—In the instance in which the Secretary approves an application for a program



under this title without having approved all applications ranked above such application, the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit.

**“SEC. 208. NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE.**

“(a) IN GENERAL.—The Secretary shall conduct a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected, and such other research as may be necessary.

“(b) REQUIREMENTS.—The study required by subsection (a) shall—

“(1) have a longitudinal component; and

“(2) yield data reliable at the State level for as many States as the Secretary determines is feasible.

“(c) PREFERRED CONTENTS.—In conducting the study required by subsection (a), the Secretary should—

“(1) collect data on the child protection programs of different small States (or different groups of such States) in different years to yield an occasional picture of the child protection programs of such States;

“(2) carefully consider selecting the sample from cases of confirmed abuse or neglect; and

“(3) follow each case for several years while obtaining information on, among other things—

“(A) the type of abuse or neglect involved;

“(B) the frequency of contact with State or local agencies;

“(C) whether the child involved has been separated from the family, and, if so, under what circumstances;

“(D) the number, type, and characteristics of out-of-home placements of the child; and

“(E) the average duration of each placement.

“(d) REPORTS.—

“(1) IN GENERAL.—From time to time, the Secretary shall prepare reports summarizing the results of the study required by subsection (a).

“(2) AVAILABILITY.—The Secretary shall make available to the public any report prepared under paragraph (1), in writing or in the form of an electronic data tape.

“(3) AUTHORITY TO CHARGE FEE.—The Secretary may charge and collect a fee for the furnishing of reports under paragraph (2).

“(4) FUNDING.—The Secretary shall carry out this section using amounts made available under section 425 of the Social Security Act.

### **“TITLE III—GENERAL PROVISIONS**

**“SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

“(a) TITLE I.—There are authorized to be appropriated to carry out title I, \$230,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2002.

“(b) TITLE II.—

“(1) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall make available 12 percent of such amount to carry out title II (except for sections 203 and 208).

“(2) GRANTS FOR DEMONSTRATION PROJECTS.—Of the amount made available under paragraph (1) for a fiscal year, the Secretary shall make available not less than 40 percent of such amount to carry out section 203.

“(c) INDIAN TRIBES.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall make available 1 percent of such amount to provide grants and contracts to Indian tribes and Tribal Organizations.

“(d) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.

**“SEC. 302. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.**

“(a) GRANTS TO STATES.—The Secretary, in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

“(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

“(2) the handling of cases of suspected child abuse or neglect related fatalities; and

“(3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.

“(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for assistance under this section, such State shall—

“(1) be an eligible State under section 102;

“(2) establish a task force as provided in subsection (c);

“(3) fulfill the requirements of subsection (d);

“(4) submit annually an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

“(A) make such reports to the Secretary as may reasonably be required; and

“(B) maintain and provide access to records relating to activities under subsection (a); and

“(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a).

“(c) STATE TASK FORCES.—

“(1) GENERAL RULE.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate, and maintain, a State multidisciplinary task force on children’s justice (hereafter in this section referred to as ‘State task force’) composed of professionals with knowledge

and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities. The State task force shall include—

“(A) individuals representing the law enforcement community;

“(B) judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);

“(C) child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;

“(D) health and mental health professionals;

“(E) individuals representing child protective service agencies;

“(F) individuals experienced in working with children with disabilities;

“(G) parents; and

“(H) representatives of parents’ groups.

“(2) EXISTING TASK FORCE.—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

“(d) STATE TASK FORCE STUDY.—Before a State receives assistance under this section, and at 3-year intervals thereafter, the State task force shall comprehensively—

“(1) review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal; and

“(2) make policy and training recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

“(e) ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.—

“(1) GENERAL RULE.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

“(A) investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim’s family and which also ensures procedural fairness to the accused;

“(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children; and

“(C) reform of State laws, ordinances, regulations, protocols and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.

“(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

“(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force’s recommendations are not adopted; or

“(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

“(f) FUNDS AVAILABLE.—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.

**“SEC. 303. TRANSITIONAL PROVISION.**

“A State or other entity that has a grant, contract, or cooperative agreement in effect, on the date of enactment of this Act, under the Family Resource and Support Program, the Community-Based Family Resource Program, the Family Support Center Program, the Emergency Child Abuse Prevention Grant Program, the Abandoned Infants Assistance Act of 1988, or the Temporary Child Care for Children with Disabilities and Crisis Nurseries Programs shall continue to receive funds under such grant, contract, or cooperative agreement, subject to the original terms under which such funds were provided, through the end of the applicable grant, contract, or agreement cycle.

**“SEC. 304. RULE OF CONSTRUCTION.**

“(a) IN GENERAL.—Nothing in this Act, or in part B or E of title IV of the Social Security Act, shall be construed—

“(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian; and

“(2) to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.

“(b) STATE REQUIREMENT.—Notwithstanding subsection (a), a State shall have in place authority under State law to permit the child protective service system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.”.

**SEC. 3202. REAUTHORIZATIONS.**

(a) MISSING CHILDREN’S ASSISTANCE ACT.—Section 408 of the Missing Children’s Assistance Act (42 U.S.C. 5777) is amended—

- (1) by striking “To” and inserting “(a) IN GENERAL.—To”
- (2) by striking “and 1996” and inserting “1996, and 1997”;
- and
- (3) by adding at the end thereof the following new subsection:

“(b) EVALUATION.—The Administrator shall use not more than 5 percent of the amount appropriated for a fiscal year under subsection (a) to conduct an evaluation of the effectiveness of the programs and activities established and operated under this title.”.

(b) VICTIMS OF CHILD ABUSE ACT OF 1990.—Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004) is amended—

- (1) in subsection (a)(2), by striking “and 1996” and inserting “1996, and 1997”; and
- (2) in subsection (b)(2), by striking “and 1996” and inserting “1996 and 1997”.

**SEC. 3203. REPEALS.**

(a) IN GENERAL.—The following provisions of law are repealed:

- (1) Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111 et seq.).
- (2) The Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note).
- (3) The Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117 et seq.).
- (4) Subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.).

(b) CONFORMING AMENDMENTS.—

(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of the Congress and the Director of the Office of Management and Budget, the Secretary of Health and Human Services shall prepare and submit to the Congress a legislative proposal in the form of an implementing bill containing technical and conforming amendments to reflect the repeals made by this section.

(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this chapter, the Secretary of

Health and Human Services shall submit the implementing bill referred to under paragraph (1).

## **Subtitle C—Child Care**

### **SEC. 3301. SHORT TITLE AND REFERENCES.**

(a) **SHORT TITLE.**—This subtitle may be cited as the “Child Care and Development Block Grant Amendments of 1996”.

(b) **REFERENCES.**—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

### **SEC. 3302. 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. 3303. 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. 601–617) is amended by adding at the end the following new section:

#### **“SEC. 418. FUNDING FOR CHILD CARE.**

“(a) **GENERAL CHILD CARE ENTITLEMENT.**—

“(1) **GENERAL ENTITLEMENT.**—Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments

under a grant under this subsection for a fiscal year in an amount equal to—

“(A) the sum of the total amount required to be paid to the State under 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 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 re-

siding 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.—For grants under this section, there are appropriated—

- “(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. 3304. 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. 3305. 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 organization receiving assistance under this subchapter.”;

(vi) in subparagraph (G) by striking “Provide assurances” and inserting “Certify”; and

(vii) by striking subparagraphs (H), (I), and (J) and inserting the following:

“(H) 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)”;

(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)(H).”; 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. 3306. LIMITATION ON STATE ALLOTMENTS.**

Section 658F(b)(1) (42 U.S.C. 9858d(b)(1)) is amended by striking “No” and inserting “Except as provided for in section 658O(c)(6), no”.

**SEC. 3307. 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 4 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. 3308. REPEAL OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE REQUIREMENT.**

Section 658H (42 U.S.C. 9858f) is repealed.

**SEC. 3309. ADMINISTRATION AND ENFORCEMENT.**

Section 658I(b) (42 U.S.C. 9858g(b)) is amended—

(1) in paragraph (1), by striking “, and shall have” and all that follows through “(2)”;

(2) 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. 3310. PAYMENTS.**

Section 658J(c) (42 U.S.C. 9858h(c)) is amended by striking “expended” and inserting “obligated”.

**SEC. 3311. 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) BIENNIAL 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. 3312. 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. 3313. 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. 3314. 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. 3315. 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 (Public Law 103–382; 108 Stat. 3794) is repealed.

(e) CERTAIN CHILD CARE PROGRAMS UNDER THE SOCIAL SECURITY ACT.—

(1) AFDC AND TRANSITIONAL CHILD CARE PROGRAMS.—Section 402 of the Social Security Act (42 U.S.C. 602) is amended by striking subsection (g).

(2) AT-RISK CHILD CARE PROGRAM.—

(A) AUTHORIZATION.—Section 402 of the Social Security Act (42 U.S.C. 602) is amended by striking subsection (i).

(B) FUNDING PROVISIONS.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by striking subsection (n).

**SEC. 3316. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on October 1, 1996.

(b) EXCEPTION.—The amendment made by section 3303(a) shall take effect on the date of enactment of this Act.

## Subtitle D—Child Nutrition Programs

### CHAPTER 1—NATIONAL SCHOOL LUNCH ACT

**SEC. 3401. STATE DISBURSEMENT TO SCHOOLS.**

(a) IN GENERAL.—Section 8 of the National School Lunch Act (42 U.S.C. 1757) is amended—

(1) in the third sentence, by striking “Nothing” and all that follows through “educational agency to” and inserting “The State educational agency may”;

(2) by striking the fourth and fifth sentences;

(3) by redesignating the first through sixth sentences, as amended by paragraph (1), as subsections (a) through (f), respectively;

(4) in subsection (b), as redesignated by paragraph (3), by striking “the preceding sentence” and inserting “subsection (a)”; and

(5) in subsection (d), as redesignated by paragraph (3), by striking “Such food costs” and inserting “Use of funds paid to States”.

(b) **DEFINITION OF CHILD.**—Section 12(d) of the Act (42 U.S.C. 1760(d)) is amended by adding at the end the following:

“(9) ‘child’ includes an individual, regardless of age, who—

“(A) is determined by a State educational agency, in accordance with regulations prescribed by the Secretary, to have 1 or more mental or physical disabilities; and

“(B) is attending any institution, as defined in section 17(a), or any nonresidential public or nonprofit private school of high school grade or under, for the purpose of participating in a school program established for individuals with mental or physical disabilities.

No institution that is not otherwise eligible to participate in the program under section 17 shall be considered eligible because of this paragraph.”.

**SEC. 3402. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.**

(a) **NUTRITIONAL STANDARDS.**—Section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)) is amended—

(1) in paragraph (2)—

(A) by striking “(2)(A) Lunches” and inserting “(2) Lunches”; and

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) **ELIGIBILITY GUIDELINES.**—Section 9(b) of the Act is amended—

(1) in paragraph (2)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(2) in paragraph (5), by striking the third sentence; and

(3) in paragraph (6), by striking “paragraph (2)(C)” and inserting “paragraph (2)(B)”.

(c) **UTILIZATION OF AGRICULTURAL COMMODITIES.**—Section 9(c) of the Act is amended by striking the second, fourth, and sixth sentences.

(d) **CONFORMING AMENDMENT.**—The last sentence of section 9(d)(1) of the Act is amended by striking “subsection (b)(2)(C)” and inserting “subsection (b)(2)(B)”.

(e) **NUTRITIONAL INFORMATION.**—Section 9(f) of the Act is amended—

(1) by striking paragraph (1);

(2) by striking “(2)”; and

(3) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively;

(4) by striking paragraph (1), as redesignated by paragraph (3), and inserting the following:



“(1) NUTRITIONAL REQUIREMENTS.—Except as provided in paragraph (2), not later than the first day of the 1996–1997 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the program that—

“(A) are consistent with the goals of the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341); and

“(B) provide, on the average over each week, at least—

“(i) with respect to school lunches,  $\frac{1}{3}$  of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; and

“(ii) with respect to school breakfasts,  $\frac{1}{4}$  of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences.”;

(5) in paragraph (3), as redesignated by paragraph (3)—

(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(B) in subparagraph (A), as so redesignated, by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(6) in paragraph (4), as redesignated by paragraph (3)—

(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A) (as redesignated by subparagraph (A)), by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(C) in subparagraph (A)(ii) (as redesignated by subparagraph (B)), by striking “subparagraph (C)” and inserting “paragraph (3)”.

(f) USE OF RESOURCES.—Section 9 of the Act is amended by striking subsection (h).

#### **SEC. 3403. FREE AND REDUCED PRICE POLICY STATEMENT.**

Section 9(b)(2) of the National School Lunch Act (42 U.S.C. 1758(b)(2)), as amended by section 3402(b)(1), is further amended by adding at the end the following:

“(C) FREE AND REDUCED PRICE POLICY STATEMENT.—

After the initial submission, a school shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school. A routine change in the policy of a school, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school to submit a policy statement.”.

#### **SEC. 3404. SPECIAL ASSISTANCE.**

(a) EXTENSION OF PAYMENT PERIOD.—Section 11(a)(1)(D)(i) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)(D)(i)) is

amended by striking “, on the date of enactment of this subparagraph,”.

(b) **APPLICABILITY OF OTHER PROVISIONS.**—Section 11 of the Act is amended—

- (1) by striking subsection (d);
- (2) in subsection (e)(2)—
  - (A) by striking “The” and inserting “On request of the Secretary, the”; and
  - (B) by striking “each month”; and
- (3) by redesignating subsections (e) and (f), as so amended, as subsections (d) and (e), respectively.

**SEC. 3405. MISCELLANEOUS PROVISIONS AND DEFINITIONS.**

(a) **ACCOUNTS AND RECORDS.**—Section 12(a) of the National School Lunch Act (42 U.S.C. 1760(a)) is amended by striking “at all times be available” and inserting “be available at any reasonable time”.

(b) **RESTRICTION ON REQUIREMENTS.**—Section 12(c) of the Act is amended by striking “neither the Secretary nor the State shall” and inserting “the Secretary shall not”.

(c) **DEFINITIONS.**—Section 12(d) of the Act, as amended by section 3401(b), is further amended—

- (1) in paragraph (1), by striking “the Trust Territory of the Pacific Islands” and inserting “the Commonwealth of the Northern Mariana Islands”;
- (2) by striking paragraphs (3) and (4); and
- (3) by redesignating paragraphs (1), (2), and (5) through (9) as paragraphs (6), (7), (3), (4), (2), (5), and (1), respectively, and rearranging the paragraphs so as to appear in numerical order.

(d) **ADJUSTMENTS TO NATIONAL AVERAGE PAYMENT RATES.**—Section 12(f) of the Act is amended by striking “the Trust Territory of the Pacific Islands,”.

(e) **EXPEDITED RULEMAKING.**—Section 12(k) of the Act is amended—

- (1) by striking paragraphs (1), (2), and (5); and
- (2) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(f) **WAIVER.**—Section 12(l) of the Act is amended—

- (1) in paragraph (2)(A)—
  - (A) in clause (iii), by adding “and” at the end;
  - (B) in clause (iv), by striking the semicolon at the end and inserting a period; and
  - (C) by striking clauses (v) through (vii);
- (2) in paragraph (3)—
  - (A) by striking “(A)”;
  - (B) by striking subparagraphs (B) through (D);
- (3) in paragraph (4)—
  - (A) in the matter preceding subparagraph (A), by striking “of any requirement relating” and inserting “that increases Federal costs or that relates”;
  - (B) by striking subparagraph (D);
  - (C) by redesignating subparagraphs (E) through (N) as subparagraphs (D) through (M), respectively; and

(D) in subparagraph (L), as redesignated by subparagraph (C), by striking “and” at the end and inserting “or”; and

(4) in paragraph (6)—

(A) by striking “(A)(i)” and all that follows through “(B)”; and

(B) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively.

(g) **FOOD AND NUTRITION PROJECTS.**—Section 12 of the Act is amended by striking subsection (m).

**SEC. 3406. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.**

(a) **ESTABLISHMENT OF PROGRAM.**—Section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking “initiate, maintain, and expand” and inserting “initiate and maintain”; and

(B) in subparagraph (E) of the second sentence, by striking “the Trust Territory of the Pacific Islands,”; and

(2) in paragraph (7)(A), by striking “Except as provided in subparagraph (C), private” and inserting “Private”.

(b) **SERVICE INSTITUTIONS.**—Section 13(b) of the Act is amended by striking “(b)(1)” and all that follows through the end of paragraph (1) and inserting the following:

“(b) **SERVICE INSTITUTIONS.**—

“(1) **PAYMENTS.**—

“(A) **IN GENERAL.**—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

“(B) **MAXIMUM AMOUNTS.**—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

“(i) \$1.82 for each lunch and supper served;

“(ii) \$1.13 for each breakfast served; and

“(iii) 46 cents for each meal supplement served.

“(C) **ADJUSTMENTS.**—Amounts specified in subparagraph (B) shall be adjusted on January 1, 1997, and each January 1 thereafter, to the nearest lower cent increment in accordance with the changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.”.

(c) **ADMINISTRATION OF SERVICE INSTITUTIONS.**—Section 13(b)(2) of the Act is amended—

(1) in the first sentence, by striking “four meals” and inserting “3 meals, or 2 meals and 1 supplement,”; and

(2) by striking the second sentence.

(d) **REIMBURSEMENTS.**—Section 13(c)(2) of the Act is amended—

- (1) by striking subparagraph (A);
- (2) in subparagraph (B)—
  - (A) in the first sentence—
    - (i) by striking “, and such higher education institutions,”; and
    - (ii) by striking “without application” and inserting “upon showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program”; and
  - (B) by adding at the end the following: “The higher education institutions referred to in the preceding sentence shall be eligible to participate in the program under this paragraph without application.”;
  - (3) in subparagraph (C)(ii), by striking “severe need”; and
  - (4) by redesignating subparagraphs (B) through (E), as so amended, as subparagraphs (A) through (D), respectively.
- (e) ADVANCE PROGRAM PAYMENTS.—Section 13(e)(1) of the Act is amended—
  - (1) by striking “institution: *Provided*, That (A) the” and inserting “institution. The”;
  - (2) by inserting “(excluding a school)” after “any service institution”; and
  - (3) by striking “responsibilities, and (B) no” and inserting “responsibilities. No”.
- (f) FOOD REQUIREMENTS.—Section 13(f) of the Act is amended—
  - (1) by redesignating the first through seventh sentences as paragraphs (1) through (7), respectively;
  - (2) by striking paragraph (3), as redesignated by paragraph (1);
  - (3) in paragraph (4), as redesignated by paragraph (1), by striking “the first sentence” and inserting “paragraph (1)”;
  - (4) in paragraph (6), as redesignated by paragraph (1), by striking “that bacteria levels” and all that follows through the period at the end and inserting “conformance with standards set by local health authorities.”; and
  - (5) by redesignating paragraphs (4) through (7), as redesignated by paragraph (1), as paragraphs (3) through (6), respectively.
- (g) PERMITTING OFFER VERSUS SERVE.—Section 13(f) of the Act, as amended by subsection (f), is further amended by adding at the end the following:
 

“(7) OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child attending a site on school premises operated directly by the authority to refuse not more than 1 item of a meal that the child does not intend to consume. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.”.
- (h) FOOD SERVICE MANAGEMENT COMPANIES.—Section 13(l) of the Act is amended—
  - (1) by striking paragraph (4);
  - (2) in paragraph (5), by striking the first sentence; and

(3) by redesignating paragraph (5), as so amended, as paragraph (4).

(i) RECORDS.—The second sentence of section 13(m) of the Act is amended by striking “at all times be available” and inserting “be available at any reasonable time”.

(j) REMOVING MANDATORY NOTICE TO INSTITUTIONS.—Section 13(n)(2) of the Act is amended by striking “, and its plans and schedule for informing service institutions of the availability of the program”.

(k) PLAN.—Section 13(n) of the Act is amended—

(1) in paragraph (2), by striking “, including the State’s methods of assessing need”;

(2) by striking paragraph (3);

(3) in paragraph (4), by striking “and schedule”; and

(4) by redesignating paragraphs (4) through (7), as so amended, as paragraphs (3) through (6), respectively.

(l) MONITORING AND TRAINING.—Section 13(q) of the Act is amended—

(1) by striking paragraphs (2) and (4);

(2) in paragraph (3), by striking “paragraphs (1) and (2) of this subsection” and inserting “paragraph (1)”; and

(3) by redesignating paragraph (3), as so amended, as paragraph (2).

(m) EXPIRED PROGRAM.—Section 13 of the Act is amended—

(1) by striking subsection (p); and

(2) by redesignating subsections (q) and (r), as so amended, as subsections (p) and (q), respectively.

(n) EFFECTIVE DATE.—The amendments made by subsection (b) shall become effective on January 1, 1997.

#### **SEC. 3407. COMMODITY DISTRIBUTION.**

(a) CEREAL AND SHORTENING IN COMMODITY DONATIONS.—Section 14(b) of the National School Lunch Act (42 U.S.C. 1762a(b)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) IMPACT STUDY AND PURCHASING PROCEDURES.—Section 14(d) of the Act is amended by striking the second and third sentences.

(c) CASH COMPENSATION FOR PILOT PROJECT SCHOOLS.—Section 14(g) of the Act is amended by striking paragraph (3).

(d) STATE ADVISORY COUNCIL.—Section 14 is amended—

(1) by striking subsection (e); and

(2) by redesignating subsections (f) and (g), as so amended, as subsections (e) and (f), respectively.

#### **SEC. 3408. CHILD CARE FOOD PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in the section heading, by striking “AND ADULT”; and

(2) in the first sentence of subsection (a), by striking “initiate, maintain, and expand” and inserting “initiate and maintain”.

(b) PAYMENTS TO SPONSOR EMPLOYEES.—Paragraph (2) of the last sentence of section 17(a) of the Act (42 U.S.C. 1766(a)) is amended—

- (1) by striking “and” at the end of subparagraph (B);
- (2) by striking the period at the end of subparagraph (C) and inserting “; and”; and
- (3) by adding at the end the following:

“(D) in the case of a family or group day care home sponsoring organization that employs more than 1 employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited.”.

(c) TECHNICAL ASSISTANCE.—The last sentence of section 17(d)(1) of the Act is amended by striking “, and shall provide technical assistance” and all that follows through “its application”.

(d) REIMBURSEMENT OF CHILD CARE INSTITUTIONS.—Section 17(f)(2)(B) of the Act (42 U.S.C. 1766(f)(2)(B)) is amended by striking “two meals and two supplements or three meals and one supplement” and inserting “two meals and one supplement”.

(e) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the Act is amended by striking “(3)(A) Institutions” and all that follows through the end of subparagraph (A) and inserting the following:

“(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

“(A) REIMBURSEMENT FACTOR.—

“(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

“(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

“(I) DEFINITION.—In this paragraph, the term ‘tier I family or group day care home’ means—

“(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

“(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this

Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

“(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring or organization of the home under regulations established by the Secretary.

“(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

“(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on July 1, 1996.

“(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

“(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

“(I) IN GENERAL.—

“(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 90 cents for lunches and suppers, 25 cents for breakfasts, and 10 cents for supplements.

“(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

“(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

“(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

“(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

“(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

“(III) INFORMATION AND DETERMINATIONS.—

“(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

“(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility



standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

“(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

“(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring or organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

“(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

“(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

“(cc) Such other simplified procedures as the Secretary may prescribe.

“(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.”.

(2) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

“(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

“(i) IN GENERAL.—

“(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve \$5,000,000 of the amount made available for fiscal year 1997.

“(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

“(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

“(bb) training and other assistance to family and group day care homes in the implementation of the amendment to subparagraph (A) made by section 3408(e)(1) of the Personal Responsibility and Work Opportunity Act of 1996.

“(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—

“(I) \$30,000 in base funding to each State; and

“(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1995 as a percentage of the number of all family day care homes participating in the program during fiscal year 1995.

“(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1997 under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

“(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A).”.

(3) PROVISION OF DATA.—Section 17(f)(3) of the Act, as amended by paragraph (2), is further amended by adding at the end the following:

“(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

“(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

“(ii) SCHOOL DATA.—

“(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than  $\frac{1}{2}$  of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

“(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

“(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.”.

(4) CONFORMING AMENDMENTS.—Section 17(c) of the Act is amended by inserting “except as provided in subsection (f)(3),” after “For purposes of this section,” each place it appears in paragraphs (1), (2), and (3).

(f) REIMBURSEMENT.—Section 17(f) of the Act is amended—

(1) in paragraph (3)—

(A) in subparagraph (B), by striking the third and fourth sentences; and

(B) in subparagraph (C)—

(i) by striking “(i)” and

(ii) by striking clause (ii); and

(2) in paragraph (4), by striking “shall” and inserting “may” in the first sentence.

(g) NUTRITIONAL REQUIREMENTS.—Section 17(g)(1) of the Act is amended—

(1) in subparagraph (A), by striking the second sentence;

and

(2) in subparagraph (B), by striking the second sentence.

(h) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the Act is amended by striking subsection (k) and inserting the following:

“(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.”.

(i) RECORDS.—The second sentence of section 17(m) of the Act is amended by striking “at all times” and inserting “at any reasonable time”.

(j) MODIFICATION OF ADULT CARE FOOD PROGRAM.—Section 17(o) of the Act is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking “adult day care centers” and inserting “day care centers for chronically impaired disabled persons”; and

(B) by striking “to persons 60 years of age or older or”; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “adult day care center” and inserting “day care center for chronically impaired disabled persons”; and

(ii) in clause (i)—

(I) by striking “adult”;

(II) by striking “adults” and inserting “persons”; and

(III) by striking “or persons 60 years of age or older”; and

(B) in subparagraph (B), by striking “adult day care services” and inserting “day care services for chronically impaired disabled persons”.

(k) UNNEEDED PROVISION.—Section 17 of the Act is amended by striking subsection (q).

(l) CONFORMING AMENDMENTS.—

(1) Section 17B(f) of the Act (42 U.S.C. 1766b(f)) is amended—

(A) in the subsection heading, by striking “AND ADULT”; and

(B) in paragraph (1), by striking “and adult”.

(2) Section 18(e)(3)(B) of the Act (42 U.S.C. 1769(e)(3)(B)) is amended by striking “and adult”.

(3) Section 25(b)(1)(C) of the Act (42 U.S.C. 1769f(b)(1)(C)) is amended by striking “and adult”.

(4) Section 3(1) of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103–448) is amended by striking “and adult”.

(m) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1) and (4) of subsection (e) shall become effective on July 1, 1997.

(3) REGULATIONS.—

(A) INTERIM REGULATIONS.—Not later than January 1, 1997, the Secretary shall issue interim regulations to implement—

(i) the amendments made by paragraphs (1), (3), and (4) of subsection (e); and

(ii) section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)).

(B) FINAL REGULATIONS.—Not later than July 1, 1997, the Secretary shall issue final regulations to implement the provisions of law referred to in subparagraph (A).

(n) STUDY OF IMPACT OF AMENDMENTS ON PROGRAM PARTICIPATION AND FAMILY DAY CARE LICENSING.—

(1) IN GENERAL.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall study the impact of the amendments made by this section on—

(A) the number of family day care homes participating in the child care food program established under section 17 of the National School Lunch Act (42 U.S.C. 1766);

(B) the number of day care home sponsoring organizations participating in the program;

(C) the number of day care homes that are licensed, certified, registered, or approved by each State in accordance with regulations issued by the Secretary;

(D) the rate of growth of the numbers referred to in subparagraphs (A) through (C);

(E) the nutritional adequacy and quality of meals served in family day care homes that—

(i) received reimbursement under the program prior to the amendments made by this section but do not receive reimbursement after the amendments made by this section; or

(ii) received full reimbursement under the program prior to the amendments made by this section but do not receive full reimbursement after the amendments made by this section; and

(F) the proportion of low-income children participating in the program prior to the amendments made by this section and the proportion of low-income children participating in the program after the amendments made by this section.

(2) REQUIRED DATA.—Each State agency participating in the child care food program under section 17 of the National School Lunch Act (42 U.S.C. 1766) shall submit to the Secretary data on—

(A) the number of family day care homes participating in the program on June 30, 1997, and June 30, 1998;

(B) the number of family day care homes licensed, certified, registered, or approved for service on June 30, 1997, and June 30, 1998; and

(C) such other data as the Secretary may require to carry out this subsection.

(3) SUBMISSION OF REPORT.—Not later than 2 years after the effective date of this section, the Secretary shall submit the study required under this subsection to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

**SEC. 3409. PILOT PROJECTS.**

(a) UNIVERSAL FREE PILOT.—Section 18(d) of the National School Lunch Act (42 U.S.C. 1769(d)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) DEMO PROJECT OUTSIDE SCHOOL HOURS.—Section 18(e) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking “(A)”; and

(ii) by striking “shall” and inserting “may”; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (5) and inserting the following:

“(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1997 and 1998.”.

(c) ELIMINATING PROJECTS.—Section 18 of the Act is amended—

(1) by striking subsections (a) and (g) through (i); and

(2) by redesignating subsections (b) through (f), as so amended, as subsections (a) through (e), respectively.

(d) CONFORMING AMENDMENT.—Section 17B(d)(1)(A) of the Act (42 U.S.C. 1766b(d)(1)(A)) is amended by striking “18(c)” and inserting “18(b)”.

**SEC. 3410. REDUCTION OF PAPERWORK.**

Section 19 of the National School Lunch Act (42 U.S.C. 1769a) is repealed.

**SEC. 3411. INFORMATION ON INCOME ELIGIBILITY.**

Section 23 of the National School Lunch Act (42 U.S.C. 1769d) is repealed.

**SEC. 3412. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.**

Section 24 of the National School Lunch Act (42 U.S.C. 1769e) is repealed.

**SEC. 3413. INFORMATION CLEARINGHOUSE.**

Section 26 of the National School Lunch Act (42 U.S.C. 1769g) is repealed.

**CHAPTER 2—CHILD NUTRITION ACT OF 1966**

**SEC. 3421. SPECIAL MILK PROGRAM.**

Section 3(a)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(3)) is amended by striking “the Trust Territory of the Pacific Islands” and inserting “the Commonwealth of the Northern Mariana Islands”.

**SEC. 3422. FREE AND REDUCED PRICE POLICY STATEMENT.**

Section 4(b)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)) is amended by adding at the end the following:

“(E) FREE AND REDUCED PRICE POLICY STATEMENT.—

After the initial submission, a school shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school. A routine change in the policy of a school, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school to submit a policy statement.”.

**SEC. 3423. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.**

(a) TRAINING AND TECHNICAL ASSISTANCE IN FOOD PREPARATION.—Section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)) is amended—

- (1) in subparagraph (A), by striking “(A)”; and
- (2) by striking subparagraph (B).

(b) EXPANSION OF PROGRAM; STARTUP AND EXPANSION COSTS.—

(1) IN GENERAL.—Section 4 of the Act is amended by striking subsections (f) and (g).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective on October 1, 1996.

**SEC. 3424. STATE ADMINISTRATIVE EXPENSES.**

(a) USE OF FUNDS FOR COMMODITY DISTRIBUTION ADMINISTRATION; STUDIES.—Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

- (1) by striking subsections (e) and (h); and
- (2) by redesignating subsections (f), (g), and (i) as subsections (e), (f), and (g), respectively.

(b) APPROVAL OF CHANGES.—Section 7(e) of the Act, as so redesignated, is amended—

- (1) by striking “each year an annual plan” and inserting “the initial fiscal year a plan”; and
- (2) by adding at the end the following: “After submitting the initial plan, a State shall only be required to submit to the Secretary for approval a substantive change in the plan.”.

**SEC. 3425. REGULATIONS.**

Section 10(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1779(b)) is amended—

- (1) in paragraph (1), by striking “(1)”; and
- (2) by striking paragraphs (2) through (4).

**SEC. 3426. PROHIBITIONS.**

Section 11(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1780(a)) is amended by striking “neither the Secretary nor the State shall” and inserting “the Secretary shall not”.

**SEC. 3427. MISCELLANEOUS PROVISIONS AND DEFINITIONS.**

Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(1) in paragraph (1), by striking “the Trust Territory of the Pacific Islands” and inserting “the Commonwealth of the Northern Mariana Islands”; and

(2) in the first sentence of paragraph (3)—

(A) in subparagraph (A), by inserting “and” at the end; and

(B) by striking “, and (C)” and all that follows through “Governor of Puerto Rico”.

**SEC. 3428. ACCOUNTS AND RECORDS.**

The second sentence of section 16(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1785(a)) is amended by striking “at all times be available” and inserting “be available at any reasonable time”.

**SEC. 3429. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.**

(a) **DEFINITIONS.**—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended—

(1) in paragraph (15)(B)(iii), by inserting “of not more than 365 days” after “accommodation”; and

(2) in paragraph (16)—

(A) in subparagraph (A), by adding “and” at the end; and

(B) in subparagraph (B), by striking “; and” and inserting a period; and

(C) by striking subparagraph (C).

(b) **SECRETARY’S PROMOTION OF WIC.**—Section 17(c) of the Act is amended by striking paragraph (5).

(c) **ELIGIBLE PARTICIPANTS.**—Section 17(d) of the Act is amended by striking paragraph (4).

(d) **NUTRITION EDUCATION AND DRUG ABUSE EDUCATION.**—Section 17(e) of the Act is amended—

(1) in the first sentence of paragraph (1), by striking “shall ensure” and all that follows through “is provided” and inserting “shall provide nutrition education and may provide drug abuse education”;

(2) in paragraph (2), by striking the third sentence;

(3) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking “shall”;

(B) by striking subparagraph (A);

(C) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(D) in subparagraphs (A) and (B) (as redesignated), by inserting “shall” before “provide” each place it appears;

(E) in subparagraph (A) (as redesignated), by striking “and” at the end;

(F) in subparagraph (B) (as redesignated), by striking the period and inserting “; and”; and

(G) by adding at the end the following:

“(C) may provide a local agency with materials describing other programs for which participants in the program may be eligible.”;



(4) in paragraph (5), by striking “The State” and all that follows through “local agency shall” and inserting “Each local agency shall”; and

(5) by striking paragraph (6).

(e) STATE PLAN.—Section 17(f) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking “annually to the Secretary, by a date specified by the Secretary, a” and inserting “to the Secretary, by a date specified by the Secretary, an initial”; and

(ii) by adding at the end the following: “After submitting the initial plan, a State shall only be required to submit to the Secretary for approval a substantive change in the plan.”;

(B) in subparagraph (C)—

(i) by striking clause (iii) and inserting the following:

“(iii) a plan to coordinate operations under the program with other services or programs that may benefit participants in, and applicants for, the program;”;

(ii) in clause (vi), by inserting after “in the State” the following: “(including a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas)”;

(iii) in clause (vii), by striking “to provide program benefits” and all that follows through “emphasis on” and inserting “for”;

(iv) by striking clauses (ix), (x), and (xii);

(v) in clause (xiii), by striking “may require” and inserting “may reasonably require”; and

(vi) by redesignating clauses (xi) and (xiii), as so amended, as clauses (ix) and (x), respectively;

(C) by striking subparagraph (D); and

(D) by redesignating subparagraph (E) as subparagraph (D);

(2) by striking paragraphs (2), (6), (8), and (22);

(3) in the second sentence of paragraph (5), by striking “at all times be available” and inserting “be available at any reasonable time”;

(4) in paragraph (9)(B), by striking the second sentence;

(5) in the first sentence of paragraph (11), by striking “, including standards that will ensure sufficient State agency staff”;

(6) in paragraph (12), by striking the third sentence;

(7) in paragraph (14), by striking “shall” and inserting “may”;

(8) in paragraph (17), by striking “and to accommodate” and all that follows through “facilities”;

(9) in paragraph (19), by striking “shall” and inserting “may”; and

(10) by redesignating paragraphs (3), (4), (5), (7), (9) through (19), (20), (21), (23), and (24), as so amended, as para-

graphs (2), (3), (4), (5), (6) through (16), (17), (18), (19), and (20), respectively.

(f) INFORMATION.—Section 17(g) of the Act is amended—

(1) in paragraph (5), by striking “the report required under subsection (d)(4)” and inserting “reports on program participant characteristics”; and

(2) by striking paragraph (6).

(g) PROCUREMENT OF INFANT FORMULA.—

(1) IN GENERAL.—Section 17(h) of the Act is amended—

(A) in paragraph (4)(E), by striking “and, on” and all that follows through “(d)(4)”;

(B) in paragraph (8)—

(i) by striking subparagraphs (A), (C), and (M);

(ii) in subparagraph (G)—

(I) in clause (i), by striking “(i)”; and

(II) by striking clauses (ii) through (ix);

(iii) in subparagraph (I), by striking “Secretary—” and all that follows through “(v) may” and inserting “Secretary may”;

(iv) by redesignating subparagraphs (B) and (D) through (L) as subparagraphs (A) and (B) through (J), respectively;

(v) in subparagraph (A)(i), as so redesignated, by striking “subparagraphs (C), (D), and (E)(iii), in carrying out subparagraph (A),” and inserting “subparagraphs (B) and (C)(iii),”;

(vi) in subparagraph (B)(i), as so redesignated, by striking “subparagraph (B)” each place it appears and inserting “subparagraph (A)”; and

(vii) in subparagraph (C)(iii), as so redesignated, by striking “subparagraph (B)” and inserting “subparagraph (A)”; and

(C) in paragraph (10)(B)—

(i) in clause (i), by striking the semicolon and inserting “; and”;

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

(iii) by striking clause (iii).

(2) APPLICATION.—The amendments made by paragraph

(1) shall not apply to a contract for the procurement of infant formula under section 17(h)(8) of the Act that is in effect on the effective date of this subsection.

(h) NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION.—Section 17(k)(3) of the Act is amended by striking “Secretary shall designate” and inserting “Council shall elect”.

(i) COMPLETED STUDY; COMMUNITY COLLEGE DEMONSTRATION; GRANTS FOR INFORMATION AND DATA SYSTEM.—Section 17 of the Act is amended by striking subsections (n), (o), and (p).

(j) DISQUALIFICATION OF VENDORS WHO ARE DISQUALIFIED UNDER THE FOOD STAMP PROGRAM.—Section 17 of the Act, as so amended, is further amended by adding at the end the following:

“(n) DISQUALIFICATION OF VENDORS WHO ARE DISQUALIFIED UNDER THE FOOD STAMP PROGRAM.—

“(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this section of an approved vendor that is disqualified from accepting benefits under the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

“(2) TERMS.—A disqualification under paragraph (1)—

“(A) shall be for the same period as the disqualification from the program referred to in paragraph (1);

“(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

“(C) shall not be subject to judicial or administrative review.”.

**SEC. 3430. CASH GRANTS FOR NUTRITION EDUCATION.**

Section 18 of the Child Nutrition Act of 1966 (42 U.S.C. 1787) is repealed.

**SEC. 3431. NUTRITION EDUCATION AND TRAINING.**

(a) FINDINGS.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended—

(1) in subsection (a), by striking “that—” and all that follows through the period at the end and inserting “that effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs should be encouraged.”; and

(2) in subsection (b), by striking “encourage” and all that follows through “establishing” and inserting “establish”.

(b) USE OF FUNDS.—Section 19(f) of the Act is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking “(A)”;

(ii) by striking clauses (ix) through (xix);

(iii) by redesignating clauses (i) through (viii) and (xx) as subparagraphs (A) through (H) and (I), respectively;

(iv) in subparagraph (I), as so redesignated, by striking the period at the end and inserting “; and”; and

(v) by adding at the end the following:

“(J) other appropriate related activities, as determined by the State.”;

(2) by striking paragraphs (2) and (4); and

(3) by redesignating paragraph (3) as paragraph (2).

(c) ACCOUNTS, RECORDS, AND REPORTS.—The second sentence of section 19(g)(1) of the Act is amended by striking “at all times be available” and inserting “be available at any reasonable time”.

(d) STATE COORDINATORS FOR NUTRITION; STATE PLAN.—Section 19(h) of the Act is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking “as provided in paragraph (2) of this subsection”; and

(B) by striking “as provided in paragraph (3) of this subsection”;

(2) in paragraph (2), by striking the second and third sentences; and

(3) by striking paragraph (3).

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i) of the Act is amended—

(1) in the first sentence of paragraph (2)(A), by striking “and each succeeding fiscal year”;

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

“(3) FISCAL YEARS 1997 THROUGH 2002.—

“(A) IN GENERAL.—There are authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 1997 through 2002.

“(B) GRANTS.—

“(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than \$75,000 per fiscal year.

“(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.”.

(f) ASSESSMENT.—Section 19 of the Act is amended by striking subsection (j).

(g) EFFECTIVE DATE.—The amendments made by subsection (e) shall become effective on October 1, 1996.

### CHAPTER 3—MISCELLANEOUS PROVISIONS

#### SEC. 3441. COORDINATION OF SCHOOL LUNCH, SCHOOL BREAKFAST, AND SUMMER FOOD SERVICE PROGRAMS.

(a) COORDINATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall develop proposed changes to the regulations under the school lunch program under the National School Lunch Act, the summer food service program under section 13 of that Act, and the school breakfast program under section 4 of the Child Nutrition Act of 1966, for the purpose of simplifying and coordinating those programs into a comprehensive meal program.

(2) CONSULTATION.—In developing proposed changes to the regulations under paragraph (1), the Secretary of Agriculture shall consult with local, State, and regional administrators of the programs described in such paragraph.

(b) REPORT.—Not later than November 1, 1997, the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives a report containing the proposed changes developed under subsection (a).

## Subtitle E—Related Provisions

### Sec. 3501. REQUIREMENT THAT DATA RELATING TO THE INCIDENCE OF POVERTY IN THE UNITED STATES BE PUBLISHED AT LEAST EVERY 2 YEARS.

(a) **IN GENERAL.**—The Secretary shall, to the extent feasible, produce and publish for each State, county, and local unit of general purpose government for which data have been compiled in the then most recent census of population under section 141(a) of title 13, United States Code, and for each school district, data relating to the incidence of poverty. Such data may be produced by means of sampling, estimation, or any other method that the Secretary determines will produce current, comprehensive, and reliable data.

(b) **CONTENT; FREQUENCY.**—Data under this section—

(1) shall include—

(A) for each school district, the number of children age 5 to 17, inclusive, in families below the poverty level; and

(B) for each State and county referred to in subsection (a), the number of individuals age 65 or older below the poverty level; and

(2) shall be published—

(A) for each State, county, and local unit of general purpose government referred to in subsection (a), in 1997 and at least every second year thereafter; and

(B) for each school district, in 1999 and at least every second year thereafter.

(c) **AUTHORITY TO AGGREGATE.**—

(1) **IN GENERAL.**—If reliable data could not otherwise be produced, the Secretary may, for purposes of subsection (b)(1)(A), aggregate school districts, but only to the extent necessary to achieve reliability.

(2) **INFORMATION RELATING TO USE OF AUTHORITY.**—Any data produced under this subsection shall be appropriately identified and shall be accompanied by a detailed explanation as to how and why aggregation was used (including the measures taken to minimize any such aggregation).

(d) **REPORT TO BE SUBMITTED WHENEVER DATA IS NOT TIMELY PUBLISHED.**—If the Secretary is unable to produce and publish the data required under this section for any State, county, local unit of general purpose government, or school district in any year specified in subsection (b)(2), a report shall be submitted by the Secretary to the President of the Senate and the Speaker of the House of Representatives, not later than 90 days before the start of the following year, enumerating each government or school district excluded and giving the reasons for the exclusion.

(e) **CRITERIA RELATING TO POVERTY.**—In carrying out this section, the Secretary shall use the same criteria relating to poverty as were used in the then most recent census of population under section 141(a) of title 13, United States Code (subject to such periodic adjustments as may be necessary to compensate for inflation and other similar factors).

(f) **CONSULTATION.**—The Secretary shall consult with the Secretary of Education in carrying out the requirements of this section relating to school districts.

(g) DEFINITION.—For the purpose of this section, the term “Secretary” means the Secretary of Health and Human Services.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$1,500,000 for each of fiscal years 1997 through 2000.

**SEC. 3502. SENSE OF THE CONGRESS.**

It is the sense of the Congress that this title, and the amendments made by this title, should not result in an increase in the number of children who are hungry, homeless, poor, or medically uninsured.

**SEC. 3503. LEGISLATIVE ACCOUNTABILITY.**

In the event that this title, or the amendments made by this title, results in an increase in the number of children in the United States who are hungry, homeless, poor, or medically uninsured by the end of the fiscal year 1997, the Congress—

(1) shall revisit the provisions of this title, or the amendments made by this title, which caused such increase; and

(2) shall, as soon as practicable thereafter, pass legislation that stops the continuation of such increase.



**TITLE III—COMMITTEE ON ECONOMIC AND  
EDUCATIONAL OPPORTUNITIES**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ECONOMIC AND  
EDUCATIONAL OPPORTUNITIES,  
*Washington, DC, June 13, 1996.*

Hon. JOHN R. KASICH,  
*Chairman, Committee on the Budget,*  
*Washington, DC.*

DEAR CHAIRMAN KASICH. Pursuant to the reconciliation directives contained in the Conference Report on House Concurrent Resolution 178, the budget resolution for fiscal year 1997, I am pleased to transmit reconciliation recommendations for programs within the jurisdiction of the Committee on Economic and Educational Opportunities. The recommendations contained in this formal transmission were approved by the full committee on June 13, 1996 by a vote of 23 to 11. A copy of the legislation, and report, including the Committee Views together with Summary, Section by Section Analysis and other items necessary to comply with House Rules are enclosed. Pursuant to your letter of June 12, 1996, the cost estimate, Ramseyer, and minority views will be forthcoming, but in no event later than Monday, June 17, 1996.

I realize that the instructions given to the committee under H.Con.Res. 178 were derived from H.R. 3507, the Personal Responsibility and Work Opportunities Act of 1996. I know you understand that this committee was not directed to include provisions from Title IV, Restricting Welfare and Public Benefits for Aliens and, hence, we did not include any provisions from that title; however, section 424, the cosignature of alien student loans provision amends the Higher Education Act of 1965 and I respectfully request that you delete that provision as it has negligible savings and needs further review.

I hope these proposals will be of assistance to your committee in meeting the budget reconciliation targets. If you have questions or comments, please do not hesitate to call me.

Sincerely,

BILL GOODLING, *Chairman.*

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## COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES RECOMMENDATIONS ON THE BUDGET, FISCAL YEAR 1997

### PURPOSE

The purpose of the Committee Recommendations is to establish work requirements for persons receiving cash public assistance, provide increases in funding for child care, increase in funding for protecting children from abuse, and streamline nutrition assistance programs in order to reduce administrative burdens.

### EXPLANATION OF AMENDMENTS

The amendments adopted in committee are explained in this report.

### COMMITTEE ACTION

Over the past 2 years, the committee has spent a great deal of time on welfare reform and the issues surrounding it within the committee's jurisdiction. Following is a list of the committee's hearings and legislative actions on welfare reform.

On August 2, 1994, the Committee on Education and Labor conducted a hearing on overall issues surrounding welfare reform. Witnesses testifying were: the Honorable Robert E. Andrews, a Representative in Congress from the State of New Jersey; the Honorable Tom DeLay, a Representative in Congress from the State of Texas; the Honorable Jill Long, a Representative in Congress from the State of Indiana; the Honorable Dave McCurdy, a Representative from the State of Oklahoma; the Honorable Patsy Mink, a Representative in Congress from the State of Hawaii, the Honorable Rick Santorum, a Representative in Congress from the State of Pennsylvania; Secretary Donna Shalala, U.S. Department of Health and Human Services; and the Honorable Lynn C. Woolsey, Representative in Congress from the State of California.

On January 18, 1995, the Committee on Economic and Educational Opportunities conducted a hearing to consider the Contract With America: Welfare Reform. Witnesses were: Dr. Gerald Miller, Director, Michigan Department of Social Services; Mr. Doug Stites, Chief Operating Officer, Michigan Jobs Commission; Mr. Robert Rector, Policy Analyst, Heritage Foundation; Mr. Carlos Bonilla, Chief Economist, Employment Policies Institute; Mr. Mark Greenberg, Senior Staff Attorney, Center for Law and Social Policy; and Ms. Cheri Honkala, a welfare recipient.

The committee conducted several hearings relating to welfare reform and child care.

On September 20, 1994, the Committee on Education and Labor, Subcommittee on Human Resources, conducted a hearing to consider the "Impact of Welfare Reform on Child Care Providers and the Working Poor." Witnesses were: Ms. Jane L. Ross, Associate Director of Income Security Issues, General Accounting Office; Ms. Nancy Ebb, Children's Defense Fund; Mr. Ronald H. Field, Senior Vice President for Public Policy, Family Service America; Mr. Bruce Herschfield, Program Director, Child Day Care, Child Welfare League of America; Mr. Ed Cooney, Food Research and Action Center.

The Subcommittee on Early Childhood, Youth, and Families held a hearing on January 31, 1995 and a joint hearing with the Ways and Means Subcommittee on Human Resources on February 3, 1995 to consider consolidation of child care programs within the context of welfare reform.

The January 31, 1995 hearing in Washington, D.C. received comments from recipients of child care assistance, day care administrators, and child care experts. Testimony was received from: Ms. Rebecca "Missie" Kinnard, parent and child care assistance recipient, York, Pennsylvania; Mr. Bob Hollis, Day Care Administrator, Crispus Attucks Association, Inc., York, Pennsylvania; Ms. Jane Ross, Director, Income Security Issues, General Accounting Office, Washington, DC; and Ms. Patty Siegel, Executive Director, California Child Care and Resource and Referral Network, San Francisco, California.

The February 3, 1995 joint hearing in Washington, D.C. was held to receive comments from the administration, a parent receiving a child care subsidy, a Director of Family Resources, an Acting Director of a State Department of Human Services, and two policy experts. Testifying before the committee were: The Honorable Mary Jo Bane, Assistant Secretary for Children and Families, U.S. Department of Health and Human Services, Washington, D.C.; Ms. Tina Davis, student at Montgomery College and parent receiving a child care subsidy, Takoma Park, Maryland; Ms. Debbie Shepard, Director, WPA, Department of Family Resources, Montgomery County, Rockville, Maryland; Ms. Karen Highsmith, Acting Director, Division of Family Development, New Jersey Department of Human Services, Trenton, New Jersey; Mr. Douglas J. Besharov, Resident Scholar, American Enterprise Institute for Public Policy Research, Washington, D.C.; and Ms. Helen Blank, Director of Child Care, Children's Defense Fund, Washington, D.C.

On February 1, 1995, the full Committee on Economic and Educational Opportunities held a hearing on Title V of H.R. 4, the Personal Responsibility Act. Title V of H.R. 4 provided for changes to child nutrition programs, including establishment of block grants for school-based and other nutrition programs, along with guaranteed annual increases in funding for those programs.

Witnesses at the February 1, 1995 hearing were Marilyn Hurt, Food Service Supervisor, School District of LaCrosse, Wisconsin, Mr. Patrick F.E. Temple-West, Director, Nutrition Development Services, Archdiocese of Philadelphia, Ms. Joan Taylor, Executive Director of the DuPage Senior Citizens Council, Illinois, Mr. Boyd W. Boehlje, President, Pella, Iowa School Board, Pella School District, Dr. James L. Lukefahr, Medical Director, Driscoll Children's

Hospital WIC Program, and Mr. Robert J. Fersh, President, Food Research and Action Center.

Three hearings were held relating to replacement of the JOBS Program with Mandatory Work Requirements. On April 19, 1994, the Committee on Education and Labor, Subcommittee on Human Resources, conducted a hearing on the JOBS program: Views From Participants and State Administrators. Testifying at the hearing were the Honorable Mary Jo Bane, Assistant Secretary for Children and Families, Department of Health and Human Services; Ms. Jennifer Vasiloff, Executive Director, Coalition on Human Needs; Mr. Mark Greenberg, Senior Staff Attorney, Center for Law and Social Policy; Mr. Ray Scheppach, Executive Director, National Governor's Association; Mr. Larry D. Jackson, Commissioner, Virginia Department of Social Services, American Public Welfare Association; and Ms. Teresa Johnson, Ms. Gloria Cummings, Ms. Tracy Doram, Ms. Donna Sepczynski (JOBS participants).

On October 28, 1994, the Committee on Education and Labor, Subcommittee on Human Resources conducted a field hearing in Alhambra, California on the California JOBS program, known as Greater Avenues to Independence (GAIN). Witnesses testifying were: Ms. Nancy Berlin, Los Angeles; Ms. Irma Alvarado, Los Angeles GAIN program; Ms. Katherine McGrath, graduate of GAIN program, San Bernardino; Odessa Johnson, Human Services Worker, San Bernardino; Ms. Gloria Clark, Executive Director, City of Los Angeles Human Services Division; Nivia Bermudez, Director, AFDC Organization Project Los Angeles Homeless Coalition; and Ms. Lori Karny, Director, Women Helping Women Services, Council of Jewish Women.

On January 19, 1995, the Committee on Economic and Educational Opportunities, Subcommittee on Postsecondary Education, Training and Life-Long Learning, conducted an oversight hearing on the JOBS program. Testifying before the committee were William Waldman, Commissioner, New Jersey Department of Human Services; Michael Genest, Deputy Director, Welfare Programs Division, California Department of Health and Human Services; Jean Rogers, Administrator, Division of Economic Support, Wisconsin Department of Health and Human Services; and Judith Gueron, President, Manpower Development and Research Corporation.

Two hearings were held relating to establishment of a Child Protection Block Grant. The first hearing was conducted by the Subcommittee on Early Childhood, Youth and Families on January 31, 1995, and a second joint hearing was held with the Ways and Means Subcommittee on Human Resources on February 3, 1995.

The January 31, 1995 hearing devoted two panels to child welfare issues and one to child care issues. The hearing was held to receive comments from a Member of Congress, a parent, a citizen who had served as a Deputy Foreman for a Grand Jury investigation, and two policy experts. Testimony was received from: The Honorable Tim Hutchinson, Member of Congress, 3rd District, Arkansas; Ms. Cari B. Clark, parent, Springfield, Virginia; Ms. Carol Lamb Hopkins, Deputy Foreman, 1991-92 San Diego Grand Jury, San Diego, California; Mr. David Wagner, Director of Legal Policy, Family Research Council, Washington, DC; Ms. Anne Cohn Don-

nelly, Executive Director, National Committee to Prevent Child Abuse, Chicago, Illinois.

The February 3, 1995 joint hearing featured one panel on child care issues and one on child welfare issues as well as the administration commenting on both. Testifying before the committee on child welfare issues were: The Honorable Mary Jo Bane, Assistant Secretary for Children and Families, U.S. Department of Health and Human Services; Mr. Patrick Murphy, Public Guardian, Cook County, Illinois; Mr. Wade Horn, Director, National Fatherhood Initiative; Carol Statuo Bevan, Vice President for Research and Public Policy, National Council for Adoption; and Ruth Massinga, Chief Executive, the Casey Family Program, Seattle, Washington.

#### *Legislative action*

On January 3, 1995, Representatives Shaw, Talent and LaTourette introduced the Personal Responsibility Act, H.R. 4, which was part of the Republican Contract with America. H.R. 4 included provisions relating to work requirements, child care, child protection, child nutrition and other provisions related to welfare reform within the jurisdiction of the committee.

On February 21, 1995, Committee on Economic and Educational Opportunities Chairman William Goodling introduced H.R. 999, the Welfare Reform Consolidation Act of 1995. H.R. 999 consisted of the committee's initiatives and program reforms relating to welfare reform, consistent with overall welfare reforms contained in the Personal Responsibility Act, H.R. 4.

On February 22 and 23, 1995, the Committee on Economic and Educational Opportunities considered H.R. 999. The committee adopted an amendment in the nature of a substitute, agreed to additional amendments, and reported the legislation favorably, on a recorded vote.

H.R. 999 was combined with proposals from other committees in H.R. 1214 was introduced by Representatives Archer, Goodling, and Roberts on March 13, 1995, and considered (upon substituting the text of H.R. 1214 into H.R. 4) by the House of Representatives on March 21–24, 1995. H.R. 4 was approved by the House of Representatives on a vote of 234–199. The Senate approved H.R. 4 on September 19, 1995. The text of H.R. 4 as approved by the House was also included in H.R. 2491, the Balanced Budget Act of 1995, which was approved by the House of Representatives on October 26, 1995.

Conference reports on H.R. 2491, the Balance Budget Act of 1995, and H.R. 4, the Personal Responsibility Act, were approved by the House of Representatives on November 17, 1995 and December 20, 1995 respectively. President Clinton vetoed both H.R. 2491, the Balanced Budget Act on December 6, 1995 and H.R. 4, the Personal Responsibility Act on January 9, 1996.

On May 22, 1996 Representative Archer introduced H.R. 3507. H.R. 3507, contains welfare reforms from H.R. 4 together with certain changes reflected changes to H.R. 4 requested by the Nation's Governors, as well as reforms to the Medicaid program. The Budget Resolution for fiscal year 1997 includes instructions to the respective committees of jurisdiction to report savings consistent with adoption of H.R. 3507 to the Budget Committee by June 13, 1996.

On June 12, 1996, the Committee on Economic and Educational Opportunities considered its report to the Budget Committee consistent with the instructions described above.

#### SUMMARY

##### SUBTITLE A—WORK REQUIREMENTS

This subtitle, as reported by this committee, replaces the Job Opportunities and Basic Skills (JOBS) program with new mandatory work requirements. Under these provisions, States will be required to move an increasing percentage of their welfare caseload into real work activities for a minimum number of hours per week.

##### SUBTITLE B—CHILD AND FAMILY SERVICES BLOCK GRANT

This subtitle, as reported by this committee, consolidates six existing child protection programs into a new block—“The Child and Family Services Block Grant.” The purpose of this block grant is to allow States to have one pool of Federal funds from which to access funds in order to implement programs which best meet the needs of children and families in their State. By simplifying the administrative burden currently placed on States because of the fragmentation of child welfare programs, there will be less paperwork, allowing professionals to focus on providing needed services to children and families.

This block grant is part of a larger reform along with other child welfare programs which primarily fall within the jurisdiction of the Ways and Means Committee. Combined, these reforms will retain the open-ended entitlement funding for foster care maintenance payments, training, and administration; the open-ended entitlement stream for adoption assistance payments, administration and training and the existing capped entitlement for Independent Living services. In addition, the child protection standards found in current law would be retained. Taken together, the reforms consolidate 11 existing child protection programs into block grants that require only one State application, one State plan, and one State report. Combined across these provisions, States will have \$32.2 billion available in entitlement funds—about \$200 million more than current law—to protect abused and neglected children.

##### SUBTITLE C—CHILD CARE

This subtitle consolidates seven Federal child care programs into the Child Care and Development Block Grant (CCDBG) to create a single consolidated program to assist low-income parents in paying for child care. The consolidation of these programs eliminates conflicting income requirements, time limits, and work requirements between the programs so Federal child care funds may “follow the parent” as they move from welfare to work. The block grant also gives States much greater flexibility in targeting child care assistance, and ensures that States set effective policies on health, safety, and licensing standards.

Merged programs include: Child Development Associate Scholarship Assistance, State Dependent Care Planning Grant, Child Care activities under Title X of the Elementary and Secondary Education Act, native Hawaiian Family Centers, At Risk Child Care,

Transitional Child Care, and Aid to Families with Dependent Children.

Child Care funds made available through the block grant total \$22 billion over 7 years as follows: (1) \$15 billion in mandatory funds (rising from \$1.97 billion in 1997 to \$2.72 billion in 2002); and (2) \$1 billion in each of 7 years (fiscal year 1996–fiscal year 2002) in discretionary funds. According to the Congressional Budget Office, the total of \$22 billion is \$4.5 billion above funding provided under current law for the same period.

#### SUBTITLE D—CHILD NUTRITION PROGRAMS

This subtitle contains numerous provisions designed to streamline and simplify the operation of child nutrition programs and give State and localities greater flexibility to operate their programs efficiently and effectively and control program growth and Federal costs. Program savings totaling \$3.0 billion from 1997–2002 are achieved by the following measures: the implementation of a two-tiered reimbursement program for family day care homes under the Child and Adult Care Food Program, the elimination of startup grants for the School Breakfast and Summer Food Programs, modifications to the reimbursement rates for the Summer Food Program, and a provision which converts the Nutrition Education and Training program from an “entitlement” program to a “discretionary program.” The bill also eliminates numerous obsolete and conflicting provisions in laws that have been amended more than 25 times over the past 25 years.

#### SUBTITLE E—RELATED PROVISIONS

Under Subtitle E, the Secretary of Health and Human Services (in consultation with the Secretary of Education) is required to publish updated poverty estimates every 2 years. These updates must begin in 1997 for State, county, and city poverty estimates, and in 1999 for school district poverty estimates. This section authorizes the appropriation of \$1.5 million per year to carry out these provisions. In addition this title expresses the sense of Congress that the welfare reform legislation should not result in an increase number of children in poverty or who lack food, homes, or medical care.

#### COMMITTEE VIEWS

##### *Background and need for the legislation*

As the foregoing history shows, the Committee on Economic and Educational Opportunities, along with many others in Congress, have given considerable time and effort in the 104th Congress to attempting to reform our Nation’s welfare system.

The need for major welfare reform is obvious to almost everyone. According to a public opinion poll conducted in January, 1994, 71 percent of the American public said the current welfare system does “more harm than good.” The current welfare system, though intended to show society’s compassion for those of limited means, in far too many cases actually creates more dependence on government, and rewards behaviors destructive to individuals, families, and society. As a witness before the committee put it, “in welfare,

as in most other things in life, you get what you pay for. The current system pays for nonwork and nonmarriage, and has achieved dramatic increase in both.”

During the most of the past thirty years, the answer to every problem and the means to every “reform” has been to create another Federal program. Of course, each new Federal program required separate regulations, separate applications, separate eligibility rules, separate reports. Each of these in turn requires additional personnel to administer the program, to check the paperwork, to write the regulations. Much of the good intentions behind all of these programs was lost in a maze of red tape and regulations. In the end, the programs seemed more designed to meet the needs of those who administer them than those who were the intended beneficiaries.

The welfare reform proposal in H.R. 4 and in the welfare reform legislation of which this bill is a part, move in a new direction. States are given more flexibility in their use of Federal funds, but with accountability for results in reducing welfare dependence. Although President Clinton vetoed two bills very similar to this legislation, the committee believes strongly that welfare reform legislation is needed and that the approach to welfare reform outlined in H.R. 4 and in this legislation will lead to a more effective system for assisting those in need. The current legislation provides additional guaranteed funding for child care (over both current law and the President’s own proposal) and maintains funding for school lunch approximately \$400 million higher than that proposed by the President. In addition, the legislation maintains strong work requirements and consolidates several child care and child welfare programs.

#### SUBTITLE A—WORK REQUIREMENTS

Efforts by this committee and its predecessor, the Committee on Education and Labor, to place a stronger emphasis on work requirements in welfare extend back to 1964, with the passage of the Economic Opportunity Act. Title V of that Act authorized the Work Experience Program for heads of households who could not support their families. Although this program did not include mandatory work requirements, it was one of the first major attempts to assist individuals to move off welfare and into work.

The Work Experience Program was eventually replaced by the Work Incentive Program which was specifically placed under the Education and Labor Committee’s sole jurisdiction in 1975 under the Rules of the House of Representatives. Although well intentioned, the law failed to effectively move welfare recipients into employment due largely to its lack of mandated work requirements—even after reforms in 1981 which expanded options for States to include mandatory work in the programs.

By 1986 most States began experimenting with a variety of welfare-to-work programs. However, these programs also failed to stress mandatory work requirements and instead continued to focus upon education and training activities. Nevertheless, these State initiatives were the impetus for bolder attempts by this committee to enact legislation making work a requirement in exchange for cash welfare assistance.

In 1987, the Education and Labor Committee approved the Family Welfare Reform Act of 1987, which included the proposed establishment of the Fair Work Opportunities Program. This program, (which under the final legislation, the Family Support Act of 1988, renamed Job Opportunities and Basic Skills (JOBS)), had as a principal objective to move welfare recipients into work. Towards that objective, the legislation included three fundamental concepts which were unique to Federal welfare programs up to that time. First, certain recipients were required to participate in work activities at the risk of reduced benefits. Second, it required those participants in work activities to do so for a minimum number of hours. Third, it held States accountable for moving recipients into work activities through the implementation of "minimum participation rates."

Although an ambitious attempt at emphasizing work, the JOBS program has in fact not met expectations for moving recipients into real jobs, and off welfare.

The work requirements included in this welfare reform legislation reflect the work provisions included in H.R. 999, along with several changes stemming from negotiations during the conference committee of H.R. 4 as well as negotiations with the Nation's Governors since the veto of H.R. 4. These work requirements build upon the lessons learned from previous attempts at Federal welfare-to-work programs and represent a significant step forward in focusing on actual job placement and employment opportunities as opposed to stand-alone education and training programs.

#### *Need for legislation*

There is overwhelming public support for the idea that any able-bodied adult receiving public assistance should work. (see, e.g. "What To Do About Welfare," The Public Perspective, Feb./March, 1995, pp. 39-46, citing December, 1994 survey showing 84 percent support strict work requirements.) However, the current JOBS program under AFDC fails to adequately move in this direction for several reasons. First, it does not emphasize work as the first goal. Second, it fails to provide adequate State flexibility to carry out the types of work programs States feel would be successful. Finally, the current JOBS program lacks adequate accountability.

Under the legislation passed out of this committee, these shortfalls are addressed by replacing the current JOBS program with strong, mandatory work requirements designed to move towards a "work-first" system of welfare reform and providing States the flexibility necessary to implement successful welfare-to-work programs—while holding all States accountable for placing a minimum percentage of welfare recipients in work.

#### *JOBS Program lacks employment as goal*

Under the JOBS program, the emphasis is not on work and job placement, but instead on education and training activities which too often are designed with little relevance to the realities of the working world. This view has been supported in testimony given before this committee as well as in several recent reports, including reports from the General Accounting Office, which recently issued



a study specifically related to the lack of emphasis on work in the JOBS program:

“[the JOBS] programs are generally not well focused on recipients’ employment as the ultimate goal. Our recent nationwide survey of local programs administrators revealed that JOBS programs have generally not forged the strong links with local employers that may be important to helping AFDC recipients gain work experience and find jobs.” (US General Accounting Office, “Current AFDC Program Not Sufficiently Focused on Employment” December 1994)

More recent findings by the GAO also found that about one-half of the county JOBS administrators nationwide stated that they do not work enough with employers to find jobs for participants. (US General Accounting Office, “Most AFDC Training Programs Not Emphasizing Job Placement,” May 1995)

The view that work activities are not a priority under JOBS was highlighted by Mark Greenberg, Senior Staff Attorney, Center for Law and Social Policy. Mr. Greenberg testified before this committee that:

While the JOBS program has demonstrated a strong commitment to education, its progress has been much less in those areas which involve direct employer linkages; job placement and development activities, work supplementation, and on-the-job training. The lack of stronger employment linkages is of concern for several reasons: First, in many instances, individuals do not wish to participate in education; they want to enter employment as rapidly as possible. In those cases, a more comprehensive program could increase their employment opportunities. Second, the impact of education and training efforts may be diminished when a program lacks the ability to readily translate education gains into employment opportunities in the local community.

His testimony is supported by data from the U.S. Department of Health and Human Services (JOBS Program Information Memorandum, No. ACFIM 94-8, September 29, 1994) which indicates that for the most recent program year, almost 58 percent of JOBS participants engaged in education and training related activities, as compared to just 12.8 percent who were placed into work-directed activities including job search assistance (8 percent), community work experience (4.3 percent), on-the-job training (0.2 percent), and work supplementation (0.3 percent).

Additional evidence that the lack of priority on work in the JOBS program is the wrong approach in reducing welfare dependency was provided by Michael Genest, Deputy Director, Welfare Programs Division, California Department of Health and Human Services, who testified before the committee on this point, stating:

“(What we have found), thanks to Ms. Gueron’s evaluation in the Manpower Demonstration Research Corporation (MDRC) report of our four California counties that were extensively studied, is that the GAIN Program, and

I believe the other State's jobs programs, can only be successful when it is strongly focused on employment. I would cite Riverside County as evidence for that, and the MDRC report goes into some detail as to what caused that in Riverside County, but basically I think the main thing that sets Riverside apart and makes it the most effective welfare-to-work program ever rigorously studied in this country is the management, the staff, the providers of service, and the participants, all keep their attention focused on that one goal of getting a job. I think that job focus is, more than anything, responsible for why Riverside County returned \$2.84 of savings for every taxpayer dollar of cost. The flip side of that, the other lesson that I think we have learned, is that stressing long-term education and long-term training as opposed to stressing immediate job placement does not work. I would cite our Alameda County, which was also part of the MDRC report, as evidence of that. In Alameda County they truly did focus on long-term educational involvement to the exclusion of an emphasis on an immediate job, and that is why their program failed, and that is why it returned only 45 cents in savings for every dollar of taxpayer investment, not an acceptable return on investment.

Taking this, and other similar testimony into account, the committee's legislation replaces the concept of the JOBS program with the idea of "work first," in which work mandated recipients, current and new, would be required to enter into private sector employment, subsidized employment, community work, on-the-job training or job search assistance. Unlike the current JOBS program, education and training is not permitted until a recipient has participated in work or the education and training is conducted in conjunction with work. The legislation replaces the JOBS concept of "education and training first—maybe work later," with "work first."

#### *State flexibility*

The existing statutory restrictions under the current JOBS program limit the flexibility for States to readily design and implement welfare-to-work programs which meet their needs. Ms. J. Jean Rogers, Administrator, Division of Economic Support, Wisconsin Department of Health and Human Services, provided testimony on what Wisconsin would be able to do without these restrictions.

"We would help people who come to us find employment or alternatives to cash assistance before their application is approved and they begin down the path of welfare dependency. We have discovered in our early county pilots that many individuals can be helped to maintain their economic independence in this way, and we would like to make cooperation in such efforts at self-sufficiency a requirement of eligibility for welfare in the first place. However, under current law, this sensible approach requires a Federal waiver."

Ms. Rogers continued:

“We would also like to make participation in JOBS more like a real job. Employers say that a positive attitude and good work habits are the characteristics that they most seek when making hiring decisions. Therefore, we would pay cash assistance only for hours of successful completion of program activities, making participation in JOBS move like a wage. This is currently allowed only for two-parent families, except with another Federal waiver. We would also like to continue to encourage greater use of active private employment as preparation to fully unsubsidized employment. Our experience shows that diverting some welfare funds to temporarily help cover the wage and other costs with a private employer is far more effective than placing the same individual in a Government education or training program alone. In fact, we are more than twice as successful at placing individuals in employment with a private company than we are in placing individuals who have participated in any of our educational components, and yet the current wage subsidy provision of the AFDC law called work supplementation is extraordinarily complex, leading to a low response rate by businesses. For instance, the law says an employer cannot accept a subsidized employee in an existing position. Instead, the employer has to create an entirely new position. This is unreasonable. Also, we might like to use a simple procedure giving clients vouchers for wage subsidies. Instead, there is a very complicated process for a business to claim wage subsidies under the current law.”

The committee’s decision to repeal the JOBS program and replace it with a highly flexible, mandatory work provision, will allow States to move forward with these types of innovations outlined by Ms. Rogers.

#### *Accountability*

State flexibility is key to the reform of our welfare system, but the public also wants the assurance that States are held accountable for placing able-bodied welfare recipients into work. Under Subtitle A, States will be required to meet “participation rates regarding the proportion of their entire welfare caseload in work activities. The committee believes that setting such “performance standards” for work without prescribing in detail how States must implement their programs, best combines flexibility and accountability and help reach the overall goal of moving welfare recipients from dependency to employment and self-sufficiency.

#### *Description of legislation*

*Participation rates.* Subtitle A requires States to meet certain requirements regarding the percentage of their caseload in work activities. Under an amendment adopted by the committee, the participation rate (calculated for each month) for 1996 through 2002 is as follows:

Year:	<i>Participation Rate</i>
	<i>Participation Rate</i>
1996 .....	20
1997 .....	25

	<i>Participation Rate</i>
1998 .....	30
1999 .....	35
2000 .....	40
2001 .....	45
2002 .....	50

Thus by the year 2003, 50 percent of the adult welfare case load will be required to participate in work activities. Higher rates (from 50 to 90 percent) apply to two-parent families.

It should be noted that States are given flexibility in determining who will be required to participate in work activities in order to meet these percentages. Subtitle A also allows, but does not require, States to exempt single custodial parents of children under the age of 1 from work requirements and from the calculation of participation rates.

*Credit for caseload reductions.* Title I allows States to receive credit for welfare caseload reduction for the purposes of meeting the participation requirements. States are able to count net reductions in the caseload below the 1995 baseline as participation. This provision, in effect, provides States with the ability, and in fact the incentive, to do away with the concept of measuring participation rates, (which is by and large a “process” measurement), and move toward having their performance based on a true outcome—a reduction in welfare dependency, a goal in which no one can argue. However, it is not the intention of this committee that States be able to count reductions in caseloads to the extent such reductions are determined by the Secretary to be required by Federal law.

*Two-parent families.* Subtitle A imposes strict work requirements for two-parent families receiving AFDC. The committee feels that there is strong evidence to suggest that strict work requirements greatly reduces welfare dependency for this population. As such, these provisions require that States ensure that in a minimum of 50 percent (moving to 90 percent in 1999) of two-parent families, one parent is participating in unsubsidized employment, subsidized private sector employment, or subsidized public sector employment or work experience if sufficient private sector employment is not available.

*Allowable work activities.* The allowable work activities in Subtitle A are those which may be counted by the State towards meeting the participation requirements. Of course, States may use either the specified activities or other work not counted towards meeting the participation rate requirements.

It is the committee’s strong belief that every adult on welfare, or applying for welfare, should first be directed towards placement into unsubsidized employment through job search assistance. In the event that unsubsidized employment can not be found, attempts should be made to find subsidized private sector employment. Only when these options have failed should attempts be made for placement into subsidized public sector employment or work experience be made.

Subtitle A allows States to count education and training as allowable work activities, but with several restrictions. First, recipients should not be placed into such programs until they have first participated or are participating in one or more of the work activi-

ties described above. Secondly, any education or training should be directly related to employment. The committee believes that this model of work-first has the most promise in truly changing the nature of this Nation's current welfare-to-work initiatives.

However, the committee recognizes the need to allow States to continue with successful programs involving vocational education as a way in which to assist individuals off welfare. For this reason, the committee language allows for States to count up to 20 percent of their working caseload to meet the work requirement through participation in vocational education.

The committee recognizes the fact that a vast number of individuals who end up as long-term welfare recipients are those who have not obtained a high school diploma. Therefore, the committee gives States the ability to count "satisfactory attendance at secondary school" as a work activity for those individuals who have not completed secondary school and who meet the minimum hours per week specified in the bill. It further allows States to deem as engaged in work, single teen heads of households who are maintaining satisfactory attendance in high school and who participate in such education for the minimum number of hours required under this section.

An amendment adopted by the committee specifies that job search and job readiness assistance may only be counted as work activities for 4 weeks except that, if the State's unemployment rate exceeds the national average, such job search and job readiness assistance may be counted for 12 weeks.

*Penalties.* Under this legislation, if an adult recipient refuses to engage in required work, the State is required to reduce the amount of assistance to the family pro rata (or more at State option) with respect to the period of work refusal, or is required to 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 11 for refusal to work if the parent proves that there is a demonstrated inability to obtain needed child care for specific reasons.

These changes reflect one of the major goals of this committee 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.

The committee believes that States should also be held accountable for meeting the participation rates set forth under this proposal. The committee language establishes penalties for States failing to meeting the required participation rates equal to not more than 5 percent of the amount of the (AFDC) grant otherwise payable to the State in the following year. (This penalty is designed in coordination with the Ways and Means provisions of this welfare reform, which will replace individual entitlements to welfare with a single block grant to States, referred to as Temporary Assistance for Needy Families (TANF)). This section also requires that the Secretary impose the penalties upon States based on the degree of noncompliance.

*Supplemental grants.* The committee bill includes authorization of supplemental grants to assist the States in achieving the work participation requirements in the bill. A grant may be made to a State if the State's own expenditures in that fixed year for these purposes exceed the State's expenditures in 1994 and if the State's work programs are coordinated with job training programs established under Title II of the Job Training Partnership Act or its successor. The bill authorizes \$3 billion in fiscal year 1999 for this purpose, and provides that funds appropriated would remain available until expended.

*Nondisplacement in work activities.* The committee feels that no adult in a work activity under this part should be employed or assigned when another person is on layoff from the same or a substantially equivalent job or when the employer has terminated the employment of a regular worker or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy thus created with a subsidized worker. This provision does not preempt or supersede any State or local law providing greater protection from displacement.

*Sense of Congress that State should place a priority on placing certain parents in work.* The committee feels strongly that in complying with the mandatory work requirements, States should assign the highest priority to requiring families that include older preschool or school age children to be engaged in work activities.

*Individual responsibility plan.* The committee adopted an amendment which requires States to develop an Individual Responsibility Plan for each recipient of cash welfare assistance. The Individual Responsibility Plan would include a plan for moving the individual into private sector employment as quickly as possible, and would also describe the services to be provided by the State to assist the individual in obtaining and keeping employment. The plan may also provide, at the option of the State, requiring the individual to undergo substance abuse treatment.

The amendment requires that the State consult with the individual recipient in developing the Individual Responsibility Plan. The amendment also provides the State shall reduce assistance to the individual if he or she fails, without good cause, to comply with the plan. The amendment provides an exception to the previous sentence if the State has failed to provide services described in the plan. This exception is stated as an exception to the mandatory penalty for noncompliance with the Individual Responsibility Plan and does not apply or limit any penalties, withdrawal of benefits, or reduction of benefits provided for elsewhere in the bill or elsewhere in law. The amendment also states that the exercise of the authority of this section shall be within the sole discretion of the State.

#### SUBTITLE B—CHILD AND FAMILY SERVICES BLOCK GRANT

##### *Child protection system in crisis*

As an estimated 1 million children fall victim to child abuse or neglect on an annual basis, the average length a child stays in foster care has risen to over 2 years, and the number of adoptions

have steadily decreased, most citizens and advocates agree that the child protection system is seriously flawed.

The 1991 Report of the U.S. Advisory Board on Child Abuse and Neglect concluded that "The system the Nation has devised to respond to child abuse and neglect is failing." The Report states, "No matter which element of the system that it (the Advisory Board) examined—prevention, investigation, treatment, training, or research—it found a system in disarray, a societal response ill-suited in form or scope to respond to the profound problems facing it. It was forced to conclude that the child protection system is so inadequate and so poorly planned that the safety of the Nation's children cannot be assured."

In conducting research on the child protection system, the committee has been presented with evidence that the system has failed in two ways. It unnecessarily intrudes in the family life of millions of Americans who are wrongfully accused of child abuse or neglect, and the system too often fails to protect children who are truly at risk.

The stresses on the child protection system have dramatically increased in the last several years. During the 1980's, two crises greatly challenged the capacity of the child welfare system to protect children. First, beginning in the mid-1980's, the crack cocaine epidemic dramatically changed the type of client being served by the child welfare system. Whereas the typical foster care placement in the 1970's and early 1980's involved neglect or highly episodic, and stress related, abuse, the new crack cocaine cases frequently involved much more severe and chronic abuse resulting in longer and repeated stays in foster care.

Second, the 1980's saw an acceleration of the trend toward fatherless households. Given evidence that abuse is up to forty times more likely to occur when the biological father is not living in the home, the trend toward increasing father absence greatly increased the number of children interacting with the child protection system.

In addition, a philosophical change within the child welfare system began to move programs toward an orientation of family unification and family preservation. This philosophy of treatment took the view that all families have some strengths upon which to build, and that with appropriate early intervention and services, abuse could be prevented. In addition, the philosophy held that, even when abuse had occurred, through appropriate crisis intervention, families could be strengthened and restored.

Despite the prominence that this approach has gained, there are experts who dispute the validity of the approach, at least in its more extreme applications.

In testimony before the Subcommittee on Early Childhood, Youth and Families and the Ways and Means Subcommittee on Human Resources, Dr. Wade Horn, child psychologist and former Commissioner for Children, Youth and Families in the Department of Health and Human Services said,

Although some advocates of family preservation services claim that out-of-home placement is prevented for as many as 90 percent of children served, the few experimental evaluations of family preservation services to date have

not shown substantially lower rates of placement in foster care months after the termination of family preservation services.

In addition, according to Toshio Tatara of the American Public Welfare Association, the dramatic increase in children in foster care placements is not due to an increase in the rate at which children are entering foster care, but rather to a significant decline in the rate at which children are exiting foster care. (Tatara, T. U.S. Child Care Flow Data For fiscal year 1992 and Current Trends in the State Child Substitute Care Populations, VCIS Research Notes, no. 9 (August, 1993))

Despite the absence of empirical evidence attesting to its effectiveness, advocates for family preservation services were successful in persuading Congress to legislate a new funding stream which can be utilized only for family preservation and support services. Consequently, whether or not such services are effective or best meet the needs of a particular community, States are now required to use a substantial portion of Federal funds to provide family preservation services.

In his testimony before the Early Childhood, Youth and Families Subcommittee on January 31, 1995, Congressman Tim Hutchinson (AR) also raised concerns about the implications of a rigidly implemented family preservation philosophy. "There is another side to this problem and it is the one that I would like to focus on today. That is the problem of too little intervention. The reality is that while child welfare divisions are chasing down false accusations or even dealing with minor cases of neglect, there are children who are being beaten and killed."

Hutchinson recounted the story of Kendall Shea Moore, who in the first 5 months of his life had virtually every bone in his body broken and his skull cracked. Authorities in Arkansas arrested the child's father and, as an accomplice, the baby's mother. Hutchinson described how the baby's father was sentenced to 28 years in prison, and a 5-year sentence for the mother was downgraded to a 3-year suspended sentence. Hutchinson further described how, on January 18, 1995, just over 9 months from the time Kendall was admitted to the intensive care unit, he was permanently returned to his mother's custody.

Carol Bevan Statuto, of the National Council for Adoption, told the subcommittee, "It is time to put to rest the myth that all foster care is bad for children and to expose the myth that biological ties are the only real 'ties that bind'."

In summary, Dr. Horn said, "The child welfare system is not only in crisis, it is also at a crossroads. We must decide whether the solution to today's child welfare crisis is to continue down the road we are on toward more Federal oversight, more Federal regulation, and more Federal micro-management of the child welfare system, or to change directions and allow greater State flexibility and experimentation. I am here to argue that one of the most important reasons why the current system is in crisis is because of too much Federal micro-management of the States and too little flexibility at the State and local level."



The committee shares this view, and believes that fragmentation of programs at the Federal level has hindered States from focusing appropriate resources on solving problems with child welfare.

Subtitle B accomplishes these improvements by consolidating various grant programs, as well as providing a unified basis for research, and demonstration projects. With regard to the letter, the 1991 report of the U.S. Advisory Board on Child Abuse and Neglect noted that, "within the social services component of Department of Health and Human Services, NCCAN (National Center on Child Abuse and Neglect) has had remarkably little impact on the huge Title IV-B, Title IV-E and Title XX programs which provide the largest Federal share of State and local CPS (child protective services) funding."

The report continued, "the approach which the Federal Government has pursued in child protection—vesting a small agency with authority for Federal leadership—has led to the inadequate involvement in child protection efforts by public health, mental health, substance abuse, developmental disabilities, justice, education, and community development agencies. No one agency can be expected to deal adequately with a problem as complex as child abuse and neglect, even if it is labeled as 'national'."

According to the Advisory Board, "over the last decade, most NCCAN demonstration projects have not had a scientifically sound evaluation component. Nor has NCCAN created a mechanism for assuring that the results of those few demonstrations that have had an evaluation component are translated into practice."

The committee is confident that the new Child and Family Services Block Grant, with significant resources and a unified Federal focus, will ensure that significant attention is given to child abuse and neglect at both the Federal and the State levels.

#### *Increasing reports of abuse and neglect*

In order to be eligible for a State grant under CAPTA, States must meet certain requirements such as having mandatory reporting systems and providing for the confidentiality of victims and their families.

All States now have laws that mandate designated professionals to report specific types of child maltreatment. Under threat of civil and criminal penalties, these laws require most professionals who serve children to report suspected child abuse and neglect. About 20 States required all citizens to report, and in all States, any citizen is permitted to report.

In 1993, about 3 million reports of suspected abuse or neglect were made. This is a 20-fold increase since 1963, when about 150,000 reports were made to the authorities.

The public and professional definition of child maltreatment seems to have expanded to include more cases of "moderate" harm to children.

The committee is concerned that only  $\frac{1}{3}$  of reports of abuse and neglect are substantiated. Based on this figure, in 1986 anywhere from 1.9 to 3.8 million Americans were investigated by State child protective services for abuse that could not be substantiated. True, some unsubstantiated reports may have been actual cases of abuse or neglect, but for which the abuse could not be proven. But there

is obviously a serious problem when such a preponderance of alleged abuse and neglect is unsubstantiated. The Child and Family Services Block Grant maintains a general requirement that States have laws requiring reporting by officials and professionals. However, the content of such laws will not be subject to micro-management by NCCAN officials. The committee believes that the Child and Family Services Block Grant will give States greater flexibility in targeting investigations and services toward the more serious allegations of abuse, and not force States to give the same weight of resources to more minor allegations of abuse that are often unsubstantiated.

*Spiritual treatment of children*

The Child and Family Services Block Grant includes language to address the issue of spiritual treatment of children. The section does not require a parent or legal guardian to provide a child with medical service or treatment, against his or her religious beliefs, nor does it require a State to find, or prohibit a State from finding, abuse or neglect in cases where the parent or guardian relied solely or partially on spiritual means rather than medical treatment, in accordance with their religious beliefs. The section requires a State to have in place authority under State law to pursue any legal remedies necessary to provide medical care or treatment when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life-threatening conditions. In general, each State has sole discretion over its case-by-case determinations relating to the exercise of authority of the subsection and is not foreclosed from considering treatment by nonmedical or spiritual means. However, in light of special concerns about enforcement of Federal law protecting disabled infants from medical neglect (see e.g., U.S. Commission on Civil Rights, Medical Disabilities), the legislation retains existing language concerning the Federal oversight with references to cases involving the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

SUBTITLE C—CHILD CARE

The history of Federal support for child care has been marked, and marred, by the repeated creation of new and distinct child care programs, each with separate program requirements. The multiple programs has lead to what is sometimes described as the “public day care maze.” What’s lost in this maze are the families and children whom these programs are supposed to help. Of the current major Federal child care programs, four are relatively new and account for most of the Federal expenditures. These include child care for families receiving Aid to Families with Dependent Children (AFDC) and Transitional Child Care for families leaving AFDC, which were created as part of a welfare reform initiative in 1988, and two programs for low-income working families, the Child Care and Development Block Grant (CCDBG) and At-Risk Child Care, which were created in 1990. Estimated Federal spending for these four programs combined in fiscal year 1994 is \$1.9 billion.

Since 1990, concern has developed that too many Federal child care programs now exist, with inconsistent and uncoordinated eligibility rules and other requirements that interfere with service delivery and cause children and families to experience disruptions in their day care arrangement.

According to a May 1994 General Accounting Office study:

Despite State progress in developing seamless systems of providing child care, gaps in services remain because of different program requirements. These program requirements differ in specifying (1) the categories of clients who can be served, (2) the activities clients are permitted to pursue while remaining eligible for child care, (3) the ceiling on the amount of income that may be earned while retaining program eligibility, and (4) the length of time the child care subsidy is allowed to be paid. States told us that these conflicting requirements and resulting gaps can have negative consequences when they need it to remain in the labor force.

“Child Care: Working Poor and Welfare Recipients Face Service Gaps,” United States General Accounting Office, May 1994, GAO/HEHS 94-87.

This concern about service gaps and inconsistencies in the current mix of Federal child care programs was echoed in the following policy statement adopted by the Nation’s Governors at the Winter 1995 National Governors Association meeting:

The Governors urge Congress to move toward a more seamless system incorporating all of the Federal child care programs. In general, the Governors are of the belief that CCDBG should be the foundation for that seamless system and that other Federal child care programs, such as the Title IV A [AFDC and Transitional] and At-Risk Child Care programs, should be consolidated with the Child Care and Development Block Grant to form a single child care system operated by the States.

The committee is committed to assisting States develop the most efficient and effective use of Federal funds provided for child care assistance for low income families. In addition, as Congress undertakes efforts to significantly reform the welfare system by consolidating cash assistance and job training programs for welfare recipients, it must also simplify the delivery and administration of Federal assistance for child care services.

By providing a single source of Federal child care funding to the States with much greater flexibility for administration, States will be able to decide how best to use the funds, target funds toward low income families in a rational fashion, and allow subsidies to “follow the parent” in a seamless system that will help welfare recipients move from welfare to long-term employment and independence.

In reforming the Child Care and Development Block Grant, the committee on Economic and Educational Opportunities intends to create a system that: allows more Federal dollars to be made available for direct child care services than under current authorities;

provides flexibility for States to develop more efficient systems for helping parents avoid welfare or move from welfare to work; and, provides more choice for parents to select quality child care settings for their children.

Subtitle C consolidates seven separate Federal child care programs into the existing Child Care and Development Block Grant (CCDBG), a single consolidated block grant to assist low-income parents in paying for child care. This consolidation eliminates conflicting income requirements, time limits, and work requirements between the programs. These conflicting requirements have caused service gaps, unnecessary paperwork, and disincentives for parents to break free from dependence on cash assistance.

Under the new system, Federal funds “follow the parent” as they move from welfare to work. States will have much greater flexibility in targeting child care assistance and in merging Federal child care assistance with sources of State child care assistance. In addition, this title continues to ensure that States set specific requirements for child care providers on health and safety standards.

The reformed block grant also contains a key provision that gives parents the authority to decide where to send their child for day care services, creating a “parent-driven” system. This will allow market forces and the competition for child care funds to help bring improvements to the quality of child care available within a State.

#### *Funding*

The reformed block grant significantly increases funding for child care. Child Care funds made available through the block grant total \$22 billion over 7 years as follows: (1) \$15 billion in mandatory funds (rising from \$1.97 billion in 1997 to \$2.72 billion in 2002); and (2) \$1 billion in each of 7 years (fiscal year 1996–fiscal year 2002) in discretionary funds. According to the Congressional Budget Office, the total of \$22 billion is \$4.5 billion above funding provided under current law for the same period.

The bill establishes a single child care block grant and State administrative system by adding mandatory funds to the existing Child Care and Development Block Grant (CCDBG). Specifically, one discretionary and two mandatory streams of funding will be consolidated into a revamped CCDBG.

First, \$1 billion will be authorized annually in discretionary funds for the CCDBG. Allocation to States of these funds continues under the existing allocation formula of the CCDBG.

From the *mandatory* amounts provided, each State will receive the amount of funds it received for child care under all of the entitlement programs currently under Title IV of the Social Security Act (AFDC Child Care, Transitional Child Care, At Risk Child Care) in fiscal year 1994, in 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.

The *mandatory* funds remaining after the allocation to Indians (1 percent of the total) and the State allocations based on child care allotments from previous years will be distributed among the States based on the formula currently used in the Title IV A At Risk Child Care grant. Specifically, funds will be distributed based

on the proportion of the number of children under age 13 residing in the State to the number of all the Nation's children under age 13. States must provide matching funds at the fiscal year 1995 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. The money available to States through this source of funds for fiscal years 1997 through 2002, respectively will be: \$0.76 billion, \$0.86 billion, \$0.96 billion, \$1.16 billion, \$1.36 billion, and \$1.51 billion.

*Program goals*

The committee believes that establishing goals for the States, with proper assessments and accountability for results in relationship to these goals, rather than the current fragmented and highly regulatory Federal system of support for child care, will provide more efficient and effective use of the Federal funds.

Following is an explanation of each goal:

(1) *Provide States maximum flexibility in developing child care programs that best suit the needs of their residents.* In providing Federal support for child care, Congress has not previously made a serious attempt to develop systems that can be well coordinated at the State level. States and local providers spend an inordinate amount of effort and energy trying to integrate Federal and State funding sources so they can provide a set of seamless services to parents. Generally, States and local providers have integrated programs in such a way that parents are unaware of the many different sources of funding paying for their child's care. However, enormous resources are directed at these administrative issues rather than allowing a greater focus on services to families and improving the quality of these services.

Douglas J. Besharov, resident scholar at the American Enterprise Institute for Public Policy Research, said in testimony before the Subcommittee on Early Childhood, Youth and Families and the Ways and Means Subcommittee on Human Resources,

Annoying as it is for families, the morass of programs is a nightmare to administer. "Child care providers spend more time trying to coordinate programs than operate them," protests one agency executive. Fitting the various pieces of funding together is like trying to complete a huge jigsaw puzzle. Needless to say, Federal funds don't simply flow in: Each comes with its own complicated application and approval process that forces many programs to employ at least one full-time staff person to coordinate funding and document eligibility resources that would be better spent on the children.

(2) *Promote parental choice to empower working parents to make their own decisions on the child care that best suits their family's needs.* There are numerous arrangements that parents may make for child care, including parent care, relative care, in-home care, family day care, and center-based care. According to the National Child Care Survey of 1990, for children under age 5, a total of 48 percent of children were cared for by a parent, 22 percent by a relative, 2 percent by a nonrelative in the home, 8 percent in family

day care, 15 percent in centers, and 6 percent in other arrangements.

For children age 5–12, a total of 48 percent of children were cared for by a parent, 20 percent by a relative, 4 percent by a non-relative in the home, 4 percent in family day care, 6 percent in centers, and 19 percent in other arrangements.

As there are numerous arrangements for child care available to parents, there are also many perspectives on what is important in choosing day care, and what constitutes “quality.”

As Larner and Phillips state,

Parents care about child care quality, but they define quality in relation to the needs of their own children. In contrast to professionals, parents want assurances that their individual child’s experiences will be safe, pleasant and developmentally sound. The critical difference between parent and professional perspectives on child care is that parents are seeking a child care arrangement that will meet the needs of their own child and family; they bear no broader responsibility for the child care field. They need only find one arrangement, but their stake in the quality of that arrangement is immense

“Defining and Valuing Quality As a Parent,” Mary Larner and Deborah Phillips. *Valuing Quality in Early Childhood Services*, 1994, Paul Chapman Publishing, Ltd., London, England.

The committee believes that, for welfare reform to be truly effective, parents must fully assume the responsibilities of parenthood. Among these responsibilities is the need to ensure that one’s child is cared for in a safe and positive environment. Ensuring parental choice is a vital component to helping parents carry out their role.

(3) *Encourage States to provide consumer education information to help parents make informed choices about child care.* Subtitle C encourages States to provide consumer information to parents on child care so that they may make informed choices. The committee believes that providing information to consumers about sources of child care and elements that may indicate quality of care is an important determinant of the quality of care that children receive. Under the block grant, not only will parents exercise control over where their child receives care, they will have available to them a greater breadth of knowledge to inform their choice.

(4) *Assist States to provide child care to parents trying to achieve independence from public assistance.* This goal recognizes that securing affordable, consistent child care services can eliminate a major barrier to a parent, particularly a single parent, entering the work force and transitioning away from dependence on public assistance. In this context, subsidies for child care are appropriate, not only for the welfare recipient getting training or beginning employment, but also for low-income working poor parents that may have never been on welfare.

The committee also recognizes that, as States work to move recipients off public assistance, they may rightfully choose to target welfare recipients who are the most employable, such as two-parent families, individuals with higher educational achievement, or

individuals with school-age children. This type of flexibility in targeting individuals for transition off welfare can help a State avoid a sudden increase of demand for the most expensive types of child care.

(5) *Assist States in implementing State health, safety, licensing and registration standards.* Subtitle C achieves this goal in two fashions. First, it relieves the State of the burden of developing and implementing four individual sets of requirements for health, safety and licensing from the four major separate Federal programs. It provides States flexibility in establishing these standards, and also, through a more flexible funding structure, allows States to merge Federal and State funds to improve child care programs.

The committee expects that States will utilize this flexibility and opportunity for a more efficient system, and not apply different criteria or rules to child care provided through Federal funds than apply to comparable child care not subsidized by Federal funds.

#### *Lead entity*

Subtitle C requires States to identify a lead agency to administer all the child care funds received under the Act, including funds received 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 for the public hearing on the development of the State plan.

#### *Application and plan*

The bill requires the State plan to cover a 2-year period. States must provide a detailed description of procedures to be used to assure parental choice of providers. Instead of “providing assurances,” States must “certify” that procedures are in effect within the State to ensure unlimited parental access to the families providing care to children and to ensure parental choice of child care providers; the bill also requires that the State plan provide a detailed description of such procedures. A State must “certify” that it maintains a record of parental complaints, and requires the State to provide a detailed description of how such a record is maintained and made available. The bill changes the consumer education part of the State plan to require assurances that the State will collect and disseminate consumer education information. States must certify that they have in effect child care licensing requirements and provide a detailed description of how they are enforced. This provision does not require that licensing requirements be applied to specific types of child care providers. The Secretary is required to develop minimum standards for Indian tribes and tribal organizations receiving assistance.

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 for subsidized care, but should make a concerted effort to provide information on other sources of affordable care, such as family and relative care.

Additionally, States may spend no more than 5 percent on administrative costs. The committee does not view the following as administrative costs: eligibility determination, resource and referral, automation and data collection.

*Assistance for certain families*

States must comply with a requirement that at least 70 percent of mandatory funds must be used for welfare or at risk families. States must demonstrate how they will meet the child care needs of welfare and at risk families. States must spend a substantial portion of the amounts available to provide child care to low income working families who are not working their way off welfare or are at risk of becoming welfare dependent.

*Activities to improve the quality of child care*

The committee firmly believes in providing all families with access to quality child care services and therefore has dramatically increased the quality improvement funding above the set aside amounts in the current CCDBG.

A State that receives child care funds shall use not less than 4 percent for activities 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.

The 4-percent set-aside is of the total funding amounts (both mandatory and discretionary) and is a significant increase over the current law quality set aside in CCDBG.

The committee recognizes the role of before- and after-school care programs in providing an important source of child care services for the older children. The bill in no way impedes States from using grant funds for such purposes.

Under the committee proposal, States are given more money to pay for child care while also being given more flexibility and increased funds to improve the quality of care.

*Administration and enforcement*

This changes the current law requirement that the Secretary withhold further payments to a State in case of a finding of non-compliance until it is corrected. The Secretary is authorized to require that the State reimburse the Secretary for any improperly spent funds, or the Secretary may deduct an amount equal or less from the administrative portion of the State's subsequent allotment.

*Annual report and data*

States must collect on a monthly basis and report to HHS on a quarterly basis the following information for each family receiving assistance: family income; county of residence; the gender, race, age of children receiving benefits; whether the family includes only one parent; the sources of family income, including the amount obtained from employment, including self employment; cash assistance or other assistance under IV-A of the Social Security Act; housing assistance; food stamps; and other public assistance; the number of months the family has received benefits; the type of care



in which the child was enrolled; whether the provider was a relative; the cost of care; and the average hours per week of care.

Twice each year, the State must submit the following aggregate data to HHS: the number of providers separately identified in accord with each type of provider; the monthly cost of child care services and the portion of such cost paid with assistance from this Act by type of care; the number of payments by the State in vouchers, contracts, cash and disregards from public benefit programs by type of care; the manner in which consumer education information was provided and the number of parents who received it; and the total number of children and families served.

The Secretary must prepare and submit biennial reports rather than annual reports summarizing and analyzing information provided by the States.

#### *Allotments*

The bill maintains the current law set asides for the Territories and Indian tribes and tribal organizations except that the Trust Territory of the Pacific Islands is deleted; the set aside for Indian tribes and tribal organizations and Native Hawaiian Organizations is 1 percent of the total funds for child care made available under this Act. Indian tribes are provided with a 1 percent set aside of all funds, both entitlement and appropriated, authorized by this section each year.

#### *Definitions*

Child care deposits are added as an allowable use of child care certificates. 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 expanded.

#### *Repeals*

The bill repeals the following programs: Child Development Associate Scholarship Assistance; State Dependent Care Development Grants; Programs of national Significance under Title X of the Elementary and Secondary Education Assistance Act of 1965 and Native Hawaiian Family Based Education Centers; AFDC Child Care; Transitional Child Care; and At Risk Child Care.

#### SUBTITLE D—CHILD NUTRITION PROGRAMS

The Federal Government currently provides cash and commodity support to child nutrition programs serving over 30 million children and 1.5 million mothers. These programs provide Federal cash and commodities to States to distribute to institutions serving meals (or milk) to children in schools, in residential and nonresidential child care facilities and summer camps. They also provide aid to State health departments for supplemental nutrition programs for low-income women, infants and young children at nutritional risk. Additional Federal support is also provided for the State administrative costs of operating programs, nutrition education and training, studies, research and evaluations, dietary guidance, Federal review, and the operation of a Food Service Management Institute. Child nutrition programs include the school

lunch, school breakfast, child care food, summer food service, special milk, nutrition education and training (NET), State administrative expenses, commodity distribution programs, and special supplemental nutrition program for women, infants and children.

Over the years, as the number of Federal nutrition programs has grown, so too have the number of Federal, regulations and administrative and operating requirements for them. There are now some 30 different reimbursement rates for lunches and/or suppers, breakfasts, meal supplements (snacks) served to children in schools and child care facilities, summer programs, universities participating in athletic programs for lower income children, and homeless shelters. New reporting requirements have been added without old ones being deleted. The result is that far too much time and money is spent on serving paperwork requirements rather than serving food.

The committee has heard testimony concerning the detailed and burdensome regulations which currently govern the various child nutrition programs Marilyn Hurt, Food Service Supervisor, School District of LaCrosse, Wisconsin testified:

The first thing that seems to me that needs to be addressed is the whole process of collecting, reviewing, sorting, and tracking the income of the families who apply for the meal benefits. Surely there are other agencies who are gathering and tracking the very same data. You know, I have one 10-month employee in my office that is there just to keep track of this information and see that it is all in order for an audit. It used to be that at the beginning of the school year for the first 2 months all of us in the office really concentrated on the information with income and collecting that data. But now we must continually update that information, so it is become a full-time position.

Secondly, we need to have one program, and you heard it mentioned here this morning already, to use a popular word in our business, a seamless program.

I brought with me the file that we have to turn in order to have the summer food service program in nine sites in LaCrosse for a five-week program. This is what we send into the State of Wisconsin in order to have that program. As you can see, it takes a great deal of time to fill out all of those forms. We need one contract for all programs with one set of rules. We also need to eliminate some of the burdensome rules that are not friendly to children. For example, checking their plates at the end of the line to see that they have at least three items on their plate. That is no way to teach children how to eat. They glare at us when we tell them, you need to go back for one more item, then they go get that item and later when they go to dump their tray, they throw it away.

We would much rather be teaching children how to make the right choices, and then they are much more likely, we have learned from our experience, to take all the items and to consume them.

The committee believes that States and local providers shall be given relief from the myriad of Federal requirements and restrictions that currently often force States and local agencies to spend nearly as much time on paperwork and administration as they spend on feeding hungry children. The committee has previously proposed substantial reforms to address these problems. The current legislation begins to address them by eliminating duplicative requirements, outdated provisions, and excessive paperwork requirements, and easing certain State and local operating requirements which restrict local flexibility in serving the needs of program participants.

*Easing administrative and paperwork burdens*

The bill reduces administrative tasks by: removing a range of requirements as to State obligations to provide training, technical assistance, and "outreach" information; making clear that all program records need only be available for inspection at "reasonable" times; dropping a requirement for annual announcements of eligibility standards; reducing the number and scope of State plan requirements for the Summer Food Service program; eliminating specific requirements on how States process applications for the Child Care Food program; and removing numerous detailed requirements for how State nutrition education coordinators carry out their job.

The bill lessens paperwork burdens with amendments that: permit schools to file revisions to their free and reduced price "policy statements" only when there is a substantial change in policy, not annually; allow States to submit only substantive changes in their plans for using State administrative expense funds, not annual State plans; and drops requirement for monthly State reports on school lunch program participation.

*Giving States and schools more control over program operations*

The bill facilitates the process of receiving waivers from Federal rules, reduces restrictions on what types of rules can be waived, allows schools to use the "offer versus serve" option in the Summer Food Service program; deletes permission for the Secretary to deny funding for State administrative expenses simply because a State does not agree to participate in a Federal study or survey; and eliminates Federal mandates on how schools use commodity assistance.

*Removing unnecessary and out-of-date provisions of law*

The bill eliminates numerous unneeded provisions, such as directives that the Secretary and the States carry out the Summer Food Service and Child Care Food programs so as to "expand" them, funding for a food assistance "information clearinghouse," unnecessarily detailed provisions governing the use of Nutrition Education and Training funds, and a requirement that cereal and shortening and oil products be among commodities given to schools. In addition, it eliminates out-of-date provisions of law, provisions that simply repeat policies laid out elsewhere in child nutrition laws, and authority for six pilot projects and grant programs that have not been implemented.

*Tightening program rules*

The bill makes three changes in law that will improve the integrity of the Child Care Food program and the Summer Food Service program. It prohibits payments to sponsors of family day care homes in the Child Care Food program if they base payments to employees on the number of homes they recruit. It eliminates a current requirement for advance monthly payments of Federal subsidies to service institutions in the Child Care Food program, leaving it to States to judge if these payments are appropriate. Third, changes Summer Food Service program rules for National Youth Sports program sponsors to limit their Federal reimbursements to operations during the summer months, reduce the especially high subsidies they receive, and require that participating children be from low-income areas or meet an income test.

In addition, the committee has been instructed to report legislation to the Budget Committee reducing anticipated expenditures by \$3.0 billion between 1997 and 2002. The committee proposes the following changes to achieve those savings:

*Focusing the child care food program on those in greater need*

The committee believes that, as Congress attempts to bring the Federal budget under control, we should insure that programs designed to serve the needy are in fact targeted to those families in need. As a step in this direction, Subtitle D implements a two-tiered reimbursement structure for the Child and Adult Care Food Programs for programs operated in family day care homes and group homes. The Congressional Budget Office has estimated that three-fourths of the families that receive food assistance in family day care homes do not qualify as low income. Unlike assistance provided to children in day care centers who participate in this program, benefits in family day care homes are not means tested and providers receive the same benefits for children from middle and upper income families as they do for low income, needy children. The family day care food program is the only Federal nutrition program not currently means tested.

The committee has, therefore, provided a two-tier structure which provides lower reimbursements for meals served to children in family day care homes operated in middle and upper income areas. Federal subsidies for family day care homes would be restructured by lowering subsidies for homes in middle and higher income. Currently family day care homes receive a flat reimbursement rate for meals and snacks. They receive \$1.50 for lunch; \$.82 for breakfast and \$.4475 cents per snack. Under H.R. 3507, there would be a two-tier reimbursement program. Tier I (homes with one half of children in an area from families with income below 185 percent of poverty or an area served by a school where 50 percent of students are eligible for free and reduced price meals or operated by a provider whose income is below 185 percent of poverty) would receive current reimbursements. Tier II (all other homes) would receive reimbursement of \$.90 for lunch, \$.25 for breakfast and \$.10 for supplements. However, in order to insure that higher reimbursements are available for low income children who may be cared for in homes in higher income areas, the committee permits

such providers to file individual applications for such children in order to receive higher reimbursements.

*Nutrition education and training program*

The committee recognizes the importance of the activities carried out under the Nutrition Education and Training Program. The committee believes, however, that this program should be discretionary spending rather than mandatory, so that the option exists to reduce spending for activities carried out under this program rather than making additional changes to programs providing actual nutrition assistance to children. The committee does believe it is important for children to receive information as to the types of foods they need to eat in order to stay healthy and active. This modification in no way indicates a lack of support for funding this program should the funds be available to continue to carry out such activities.

*Start-up and expansion grants*

Subtitle D eliminates funding for school breakfast and summer food service start-up grants. The breakfast start-up program was instituted on a discretionary basis in 1989 to provide an incentive for schools to participate in the school breakfast program. Since that time, most States have enacted laws requiring schools with significant percentages of low-income students to participate in the school breakfast program. Approximately two-thirds of the schools participating in the school lunch program now also participate in the breakfast program. This program has served its purpose.

*Modifying reimbursement rates in the summer food service program*

Reimbursement rates for meals served under the Summer Food Service Program are substantially higher than the reimbursement rates for free meals served in schools and child care centers. In addition, service institutions participating in the Summer Food Service Program receive a per-meal administrative reimbursement while schools and centers do not. This change will reduce the disparity in meal reimbursements among these programs.

*WIC-related provisions*

The amendments in the committee's bill related to the Special Supplemental Nutritional Program for Women, Infants and Children (the WIC program) reduce current prescriptive administrative requirements on State and local agencies, freeing them to devote resources to accomplishing their primary goal—providing assistance to participating women, infants and children at nutritional risk. They also eliminate a number of unneeded or out-of-date provisions of the law and include an important change that will improve the integrity of the WIC program—WIC vendors that have been disqualified for participation in the Food Stamp Program will be disqualified for WIC participation.

*Reducing prescriptive requirements on State and local WIC agencies*

The bill eases State plan requirements by limiting the Secretary's authority to add plan requirements beyond those in law (requiring that he justify any additions as "reasonable") and by al-

lowing States to submit only substantive changes in their plans for approval.

The bill lessens Federal administrative requirements on States: ending a mandate for annual evaluations of nutrition education and breastfeeding promotion/support activities; eliminating Federal rules for staffing; providing that States (and local agencies) only be required to make WIC records available at "reasonable" times; and removing a requirement that States applying to convert WIC food funds to administration estimate the increased participation that will result and how they did the estimate.

The bill removes requirements for, or makes optional, a number of activities that can divert State and local resources from direct provision of WIC benefits: Specific requirements, other than Medicaid, on how to provide information about, refer people to, or coordinate with other programs; directives for drug abuse education; and requirements for services and materials in languages other than English. The bill allows State and local health agencies to judge what resources they have (and how much need there is) for these activities.

Finally, the bill eliminates several sets of overly specific mandates that micromanage how States are to carry out Federal requirements: those for enrolling those who are working, living in rural areas, or eligible, but not, participating; those for processing local agency applications for participation; those calling for public dissemination information about the WIC program; and those governing the content of WIC notices of suspension or termination.

#### *Eliminating unneeded and out-of-date provisions*

The Child Nutrition Act contains numerous, unnecessary and out-of-date provisions related to the WIC program. The bill removes requirements that the Secretary promote the WIC program (since the program is already serving almost all the total estimated eligible population) and promotes cost containment procedures and promotes joint purchases of State infant formula, a well established procedure; it eliminates specific Secretarial requirements proscribing bidding procedures on infant formula; and it repeals eight unused or out-of-date provisions of current law.

#### SUBTITLE E—RELATED PROVISIONS

The committee adopted two amendments which are included on Subtitle E. The first deals with the collection of data on poverty for use in various programs of the committee. The second expresses the sense of Congress that welfare reform should not increase child poverty.

#### *Background on poverty data provision*

Poverty data are used to allocate more than \$20 billion in Federal funds to State and local governments each year. Currently, the only reliable source of this data below the national level is the decennial census.

The Bureau of the Census, U.S. Department of Commerce does produce annual estimates of the number of people in poverty for the Nation as a whole. The Census bureau also reports State level

poverty estimates each year, but does not consider those estimates to be sufficiently reliable for programmatic purposes.

Because intercensal small area poverty estimates are not currently available, Congress and the administration are forced to rely on small area poverty data which may be up to 13 years old. This presents enormous problems for the formulation of sound and coherent policy at the Federal level, and often results in large shifts of funding to State and local governments every 10 to 13 years. These shifts often have a destabilizing effect on program operations. Clearly, there is a need for more up to date estimates on poverty at the State and local level. Subtitle E will provide a much needed tool.

#### *Explanation*

Poverty data are used to allocate more than \$20 billion in Federal funds to State and local governments every year. Currently, the only reliable source of this data below the national level is the decennial census.

The Bureau of the Census, U.S. Department of Commerce does produce annual estimates of the number of people in poverty for the Nation as a whole. The Census Bureau also reports State level poverty estimates each year, but does not consider those estimates to be sufficiently reliable for programmatic purposes.

Because current intercensal small area poverty data is not available, Congress and the administration must rely on data which may be up to 13 years old. This presents enormous problems for the formulation of sound and coherent policy at the Federal level, and often results in large shifts of funding to State and local governments every 10 to 13 years. These shifts often have a destabilizing effect on program operations.

Clearly, there is a need for more up to date estimates on poverty at the State and local level. Subtitle E will give us this much needed tool.

The committee believes that accurate statistical information measuring the social, economic, and demographic characteristics of program recipients over time will be important to its ability to assess the effects of changes in the law. Of particular value would be aggregate measures of the depth, duration, and disparity of poverty, including statistics on: the level and duration of participation in assistance programs, as well as the causes and consequences of any changes in these indicators; the economic circumstances and the family structure of recipient households, the timing of poverty in the cycle of family development, and changes in these characteristics; and demographic data such as race, ethnicity, age, and educational attainment of beneficiaries.

The committee notes that Title I of HR 3507, as considered by the House Committee on Ways and Means, requires the collection of data describing the demographic characteristics of program recipients. To maximize the usefulness of such data, it must be compiled in a useful form. The committee therefore urges that data collected under this legislation include the aggregation of data for the purposes of program evaluation and future policy development.

## SECTION-BY-SECTION ANALYSIS

Section 3001 includes the Short Title of this title.

Section 3002 includes the Table of Contents of this title.

## SUBTITLE A—WORK REQUIREMENTS

Section 3101(a) strikes Part F of Title IV the Social Security Act (the JOBS program) and inserts a new part F—Mandatory Work requirements.

“Section 481(a)(1) declares that the work requirements are applicable to all families receiving cash assistance under Part A of the Social Security Act and sets forth the requirement that States meet minimum participation rates in work programs with respect to all families receiving assistance under the State program funded under Part A of the Social Security Act. These rates are as follows: 1996—20 percent; 1997—25 percent; 1998—30 percent; 1999—35 percent; 2000—40 percent; 2001—45 percent; 2002 or thereafter—50 percent.

“Section 481(a)(2) sets additional mandatory work requirements for at least one parent in a two-parent family. These rates are as follows: 1996—50 percent; 1997—75 percent; 1998—75 percent; 1999 or thereafter—90 percent.

“Section 481(b)(1) defines how States shall calculate their monthly work participation rate for all families receiving cash assistance.

“Section 481(b)(2) defines how States shall calculate their monthly work participation rate for two-parent families.

“Section 481(b)(3) requires the Secretary of HHS to prescribe regulations to allow States to receive credit for welfare caseload reduction for the purposes of meeting the participation requirements. States are allowed to count net reductions in the caseload below the 1995 baseline as participation, but are not allowed to the extent the Secretary determines that the reduction in the number of families receiving such assistance is required by Federal law.

“Section 481(b)(4) provides States the option of not requiring a recipient who is a single custodial parent caring for a child under age 1 from engaging in work and allows States to disregard such individuals for purposes of calculating State participation rates.

“Section 481(c)(1) defines what constitutes ‘engaged’ in work” for the purposes of counting towards a States participation rate. Specifically, a recipient must be participating, and making progress in work activities (as defined), for a minimum average number of hours for any given year. For 1996 through 1998, the minimum is 20 hours; the years after that it rises accordingly: 1999—25; 2000—30; 2001—30; 2002—35 hours per week. In those years where the minimum number of hours exceeds 20, the additional required hours for single-parents may be attributable to an education or work-related training activity.

“Section 481(c)(2) An adult in a 2-parent family must make progress in work activities for at least 35 hours per week, not fewer than 30 hours must be attributable to work activities, the remaining hours may be attributable to education or job training activities.

“Section 481(c)(3) limits the number of weeks for which job search counts towards an individual’s work requirement to 4



weeks, except for those States where the unemployment rate is higher than the national average, in which case the State may allow up to 12 weeks of job search.

“Section 481(c)(4) limits the extent to which States may count participants engaged in vocational education towards their work participation rate. Not more than 20 percent of adults in all families and in 2-parent families (combined) determined to be engaged in work in the State for a month may meet the work activity requirement through participation in vocational education training.

“Section 481(c)(5) allows recipients in single parent families with a child under 6 to be considered meeting the work participation requirements if such recipient works an average of 20 hours per week.

“Section 481(c)(6) deems a teen head of household to be meeting the work participation requirement if such individual maintains satisfactory school attendance or participates in education directly related to employment for the minimum required number of hours.

“Section 481(d) defines ‘work activities’ for purposes of constituting participation. Specifically, work activities are defined as: unsubsidized employment; subsidized private sector employment; subsidized public sector employment or work experience (if sufficient private sector employment is not available); on-the-job training; community service programs and with limitations as previously noted: job search and job readiness assistance; and vocational education training (not to exceed 12 months with respect to any individual). In addition, the following activities are permissible (to the extent previously noted)—job skills training directly related to employment; education directly related to employment, in the case of a recipient who has not received a high school diploma or its equivalent; and satisfactory attendance at secondary school, in the case of a recipient who has not completed secondary school.

“Section 481(e) authorizes the Secretary to award supplemental grants to States in meeting work requirements.

“Section 481(e)(1) includes application requirements for States to be eligible for a supplemental grant.

“Section 481(e)(2) directs the Secretary to make grants to eligible States.

“Section 481(e)(3) allows for the Secretary to issue regulations providing for the equitable distribution of grant funds.

“Section 481(e)(4) provides a one-year authorization of \$3 billion for fiscal year 1999.

“Section 481(f) sets forth penalties for States and individuals not meeting the requirements of this part.

“Section 481(g) includes language related to nondisplacement of current workers by recipients engaged in work under this section.

“Section 481(h) is a sense of the Congress, that in complying with the mandatory work requirements, States should assign the highest priority to requiring families that include older preschool or school age children to be engaged in work activities.

“Section 481(i) is a sense of the Congress that States should require noncustodial, nonsupporting minor parents under the age of 18, to fulfill community work obligations and attend appropriate parenting or money management classes after school.

“Section 482(a) requires States to make an initial skill and employability assessment of each recipient.

“Section 482(b) specifies the required contents of each individual responsibility plans.

“Section 482(c) requires the State to inform all applicants and recipients of assistance to all available services for which such individual is eligible.

“Section 482(d) sets forth penalties for individuals who fail, with good cause, to comply with a signed individual plan.

“Section 482(e) states that the exercise of authority of this section shall be within the sole discretion of the State.”

Section 3101(b) includes conforming amendments.

#### SUBTITLE B—CHILD AND FAMILY SERVICES BLOCK GRANT

Section 3201 includes amendments to the Child Abuse Prevention and Treatment Act.

“Section 1 includes a short title ‘Child and Family Services Block Grant Act of 1996’.

“Section 2 includes findings related to child abuse and neglect.

“Section 3 includes purposes related to the Child and Family Services Block Grant Act of 1996.

“Section 4 includes definitions.

“Section 101 establishes the general block grant ‘Child and Family Services Block Grant’.

“Section 102 sets out the requirements for States to be eligible for receipt of funds. Requirements include certification of the following: outline of child protection program, State law requiring the reporting of child abuse and neglect procedures for screening, safety assessments and prompt investigation; State procedures for removal and placement of abused or neglected children, provisions for immunity from prosecution, provisions for appointment of guardian ad litem, provisions and procedures for expungement of certain records, written plans for permanent placement of removed children, independent living services, State procedures to respond to reporting of medical neglect of disabled infants, child protection goals, child protection standards, reasonable efforts before placement of children in foster care and confidentiality and requirements for information disclosure.

“Section 103(a) grants the Secretary authority to establish a National Child Abuse and Neglect Data System.

“Section 103(b) grants the Secretary authority to establish an Adoption and Foster Care and Analysis and Reporting systems.

“Section 103(c) grants the Secretary authority to require additional information under subsection (b) if the addition of such information is agreed to by a majority of the States.

“Section 103(d) requires the Secretary to prepare a report based on information provided by the States, within 6 months after the end of each fiscal year.

“Section 201(a) grants the Secretary authority of award grants for Research, Demonstrations, Training, and Technical Assistance.

“Section 201(b) sets forth the requirements and guidelines in order for research projects to receive Federal grants under this section.

“Section 202(a) authorizes the Secretary to establish a National Clearinghouse for Information Relating to Child Abuse.

“Section 202(b) sets forth the functions of the National Clearinghouse, which include the coordination and dissemination of information on all successful and promising programs with respect to prevention, identification and treatment of child abuse and neglect. Further functions of the Clearinghouse include maintaining and disseminating statistical information on child abuse and neglect. The Clearinghouse is also required to publish a summary of their findings.

“Section 203(a) authorizes the Secretary to award demonstration grants for innovative programs and projects on child abuse and neglect, kinship care programs, adoption opportunities and family resource centers.

“Section 203(b) authorizes the Secretary to award grants for abandoned infant programs.

“Section 203(c) requires the Secretary to evaluate grantees’ programs and projects.

“Section 204(a) allows the Secretary to provide technical assistance to child abuse and neglect programs.

“Section 204(b) allows the Secretary to provide technical assistance for adoption services.

“Section 205(a) authorizes the Secretary to award grants to public and private nonprofit organizations for the purposes of training personnel in relevant fields with regard to child abuse.

“Section 205(b) permits the Secretary to disseminate information on training resources available at the State and local level.

“Section 206(a) sets forth the requirements for grant applications.

“Section 206(b) gives the Secretary authority to determine the amount of grants to be awarded under this title.

“Section 207(a) gives the Secretary authority to establish peer review process for the purposes of evaluating and reviewing grant applications.

“Section 207(b) sets forth guidelines for the peer reviews panel to follow.

“Section 207(c) grants the Secretary the authority to issue notices of approval.

“Section 208(a) requires the Secretary to conduct a national study on children who are at risk of or are victims of child abuse and neglect.

“Section 208(b) sets forth the requirements of the study.

“Section 208(c) sets forth specific data requirements and guidelines for the study.

“Section 208(d) allows the Secretary to issue reports, from time to time, on the results of the study.

“Section 301(a) authorizes appropriations for title I, in the amounts of \$230,000,000 for fiscal year 1996 and such sums as necessary for fiscal years 1997 through 2002.

“Section 301(b) authorizes the Secretary to use 12 percent of title I appropriations for Title II. Of which, not less than 40 percent can be used to carry out grants for demonstration projects.

“Section 301(c) requires that 1 percent of title I funds are to be reserved for Indian tribes.

“Section 301(d) states that amounts appropriated under subsection (a) shall remain available until expended.

“Section 302(a) authorizes the Secretary to make grants to States for programs relating to the investigation and prosecution of child abuse and neglect cases.

“Section 302(b) sets forth eligibility requirements for a State to qualify for such grants.

“Section 302(c) requires that States who receive grants under this section, shall establish a State task force on children’s justice. Furthermore, this section sets forth requirements on who should serve on the task force.

“Section 302(d) requires State task forces, in 3 year intervals to review the State’s handling of child abuse and neglect cases, before a State receives funding under this section.

“Section 302(e) requires that a State also adopt recommendations of State task force, in order for the State to receive funds under this section.

“Section 303 contains a transitional provision that allows States, to continue to receive funds under other Federal child abuse grants (specifically, the Family Resource and Support Program, the Community-Based Family Resource Program, the Family Support Center Program, the Emergency Child Abuse Prevention Program, the Abandoned Infants Assistance Act, the Temporary Child Care for Children with Disabilities and Crisis Nurseries Programs, through the end of applicable grant.

“Section 304 includes a Rule of Construction.”

Section 3202 reauthorizes the Missing Children’s Assistance Act and the Victims of Child Abuse Act.

Sec. 3202(a) reauthorizes the Missing Children’s Assistance Act for 1997, up to 5 percent of the authorization may be used to evaluate this effectiveness of the Act.

Sec. 3202(b) reauthorizes the Victims of Child Abuse act for 1997.

Section 3203 contains repeallers.

Section 3203(a) repeals Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978; the Abandoned Infants Assistance Act of 1988; the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986; and Subtitle F of Title VII of the Stewart B. McKinney Act Homeless Assistance Act.

Section 3203(b) contains conforming amendments.

#### SUBTITLE C—CHILD CARE

Section 3301(a) contains the short title of the bill, the “Child Care and Development Block Grant Amendments of 1996.”

Section 3301(b) clarifies wherever in Subtitle C there is an amendment or repeal of a section or other provision, such amendment or repeal refers to the Child Care and Development Block Grant, (CCDBG), unless otherwise noted.

Section 3302 contains the goals of Subtitle C.

Section 3303(a) Amends the Section 658B of the Act, Authorization of Appropriations and Entitlement Authority, to authorize \$1,000,000,000 in discretionary funds for each of the fiscal years from 1996 through 2002.

Section 3303(b) Amends Part A of the Title IV of the Social Security Act by adding Section 418 for the mandatory funding for the General Child Care Entitlement. This section authorizes and appropriates the amounts of \$1,967,000,000 for fiscal year 1997, \$2,067,000,000 for fiscal year 1998, \$2,167,000,000 for fiscal year 1999, \$2,367,000,000 for fiscal year 2000, \$2,567,000,000 for fiscal year 2001 and \$2,717,000,000 for fiscal year 2002. In addition, section 3303(b) states that the use of funds, provided under this section, shall be subject to the same requirements and limitations of CCDBG and sent to the lead State agency, as defined under CCDBG.

Section 3304 amends Section 658D(b) of the Act, designating the Lead Agency, by changing the term "State" the first place it appears to "governmental or nongovernmental" and inserting in subparagraph (C) "with sufficient time and Statewide distribution of the notice of such hearing" after "hearing in the State" and striking the second sentence of paragraph (2).

Section 3305 amends Section 658E of the Act, prescribing Federal requirements for the State application and plan.

Section 3306 amends Section 658F, designating the limitation on State allotments.

Section 3307 amends Section 658G, Activities to Improve the Quality of Child Care, to allow States to spend no less than 4 percent, of their total annual funds to carry out the purposes of the Act, on activities designed to provide for comprehensive consumer education and to increase parental choice and to improve the quality and availability of child care.

Section 3308 repeals Section 658H, the Early Childhood Development and Before- and After-School care requirement.

Section 3309 amends Section 658I(b), Administration and Enforcement, by striking "and shall have" in paragraph (1) and all that follows through paragraph (2). In addition, Section 3309 states that if a State misuses funds provided under this Title, the Secretary is authorized to deduct up to the full amount of misused funds from the State's administrative portion of the total allotment, in the following fiscal year.

Section 3310 amends Section 658J(c), designating payments, by striking "expended" and inserting "obligated."

Section 3311 amends Section 658K, Annual Reports and Audits, by striking "Annual Reports" and inserting "Reports." In addition, Section 311 instituted new reporting requirements and requires that such information be collected on a monthly basis and be submitted to the Secretary on a quarterly basis. Starting no later than December 31, 1997, States will be required to submit biannual reports to the Secretary on selected data.

Section 3312 amends Section 658L, the requirement for the Report by the Secretary, by striking "1993" and inserting "1997" and changing the report requirement to biennially, from annually.

Section 3313 amends 658O, designating Allowable Allotments, to reserve 1 percent, of funds for the Territories. Section 3313 also permits Indian tribes, on the approval of the Secretary, to use funds provided under this Subtitle for the purposes of construction or renovation of facilities.

Section 3314 amends Section 658P, by inserting additional Definitions to the Section.

Section 3315(a) repeals the Child Development Associate Scholarships Assistance Act of 1985.

Section 3315(b) repeals the State Dependent Care Development Grants Act.

Section 3315(c) repeals the Programs of National Significance.

Section 3315(d) repeals the Native Hawaiian Family-Based Education Centers

Section 3315(e) repeals the AFDC, Transitional Child Care and At-Risk Child Care programs, under the Social Security Act.

Section 3316 established the effective date for this Subtitle, as October 1, 1996, with the exception that the amendment made by section 3303(a), the authorization of appropriations and entitlement authority (discretionary and mandatory spending), shall take effect on the date of enactment.

#### SUBTITLE D—CHILD NUTRITION PROGRAMS

##### Chapter 1—National School Lunch Act

Section 3401 amends sec. 8 of the NSLA to clarify State educational agencies' authority to terminate or suspend agreements with participating schools.

Section 3402(a) amends sec. 9(a) of the NSLA:

To delete a requirement that the Secretary purchase specific amounts of low-fat cheese for the School Lunch program; and

To delete a requirement that the Secretary establish administrative procedures to diminish "plate waste;"

Section 3402(b) amends sec. 9(b) of the NSLA to delete specific requirements that State education agencies and local school food authorities annually announce income eligibility guidelines for free and reduced-price lunches.

Section 3402(c) amends sec. 9(c) of the NSLA:

To delete a requirement that schools use, to the maximum extent practicable, commodities designated as "being in abundance;" and

To delete authority for the Secretary to prescribe the terms and conditions under which commodities will be used in schools and other participating institutions.

Section 3402(d) makes a conforming amendment to sec. 9(d) of the NSLA.

Section 3402(e) amends sec. 9(f) of the NSLA:

To delete provisions for the Secretary, State educational agencies, schools, and school food authorities to inform students (and parents and guardians) of the nutrition content of lunches and breakfasts served and their consistency with the Dietary Guidelines for Americans not later than the beginning of the 1996–1997 school year; and

To require that, not later than the beginning of the 1996–1997 school year, schools serve lunches and breakfasts that (a) are consistent with the Dietary Guidelines for Americans and (b) provide (on average over each week) at least one-third (lunches) or one-fourth (breakfasts) of the daily recommended

dietary allowances established by the National Academy of Sciences.

Section 3402(f) deletes sec. 9(h) of the NSLA, thereby deleting authority (provided elsewhere, in the CNA) to use Nutrition Education and Training program resources for training aimed at improving school meals.

Section 3403 amends sec. 9(b) of the NSLA by adding a provision stipulating that a School Lunch program school not be required to submit a free and reduced price “policy statement” to the State after initial submission, unless there is a substantive change in school policy.

Section 3404 amends sec. 11 of the NSLA:

To allow schools operation under provision 2 to extend their 3-year program by 2 years.

To remove a requirement that States report monthly on the average number of children receiving free or reduced-price lunches (compared to the preceding month) and replace it with a duty to report this information on request of the Secretary.

Section 3405(a) amends sec. 12(a) of the NSLA to revise a requirement that States and schools keep accounts and records available at all times to a requirement that the accounts and records be available at “any reasonable time.”

Section 3405(b) amends sec. 12(c) of the NSLA to remove a prohibition on States imposing curriculum or certain other requirements on school in carrying out the provisions of the Act.

Section 3405(c) and (d) amend sec. 12(d) of the NSLA to update or remove definitions of various terms that are out-of-date.

Section 3405(e) amends sec. 12(k) of the NSLA to delete out-of-date (1994–1995) provisions regarding rulemaking associated with implementing compliance with the Dietary Guidelines for Americans.

Section 3405(f) amends sec. 12(l) of the NSLA:

To delete requirements that applications for waivers by States and service providers describe “management goals” to be achieved, provide an implementation timetable, and describe the process to be used in monitoring progress in implementing the waiver;

To delete requirements that (a) the Secretary state in writing the expected outcome of any approved waiver, (b) the result of any waiver decision be disseminated through “normal means of communication,” and (c) waivers not exceed 3 years (unless extended by the Secretary);

To delete prohibitions on waivers relating to “offer versus serve” provisions.

To delete requirements for detailed annual reports on waivers from recipients of waivers, States, and the Secretary.

Section 3405(g) deletes sec. 12(m) of the NSLA, thereby deleting authority to annually award grants to private nonprofit organizations or education institutions for food and nutrition projects that are fully integrated with elementary school curricula.

*Summer Food Service Program*

Section 3406(a) amends sec. 13(a) of the NSLA to remove a directive that the Secretary carry out the Summer Food Service program so as to “expand” it.

Section 3406(b) amends sec. 13(b) of the NSLA to lower subsidies for meals and snacks served in the Summer Food Service Program. This section requires that, when subsidies under this program are indexed for inflation, the result be rounded down to the nearest whole cent.

Section 3406(c) amends sec. 13(b) of the NSLA to delete authority for reimbursements for up to four meals a day in the case of summer camps and service institutions for migrant children.

Section 3406(d) amends sec. 13(c) of the NSLA:

To delete authority for reimbursements under the Summer Food Service program for National Youth Sports program operations in months other than May through September;

To require children in National Youth Sports programs be eligible for Summer Food Service program participation on showing residence in low-income areas or on the basis of an income eligibility statement (replacing the current rule allowing their participation without application); and

To delete the requirement that breakfasts and supplements served under by National Youth Sports program sponsors be subsidized at the School Breakfast program “severe need” rates.

Section 3406(e) amends sec. 13(e) of the NSLA to limit to non-school providers the prohibition against advance payment of Summer Food Service program reimbursements where the provider has not certified that training sessions have been held.

Section 3406(f) amends sec. 13(f) of the NSLA:

To delete the requirement that the Secretary provide additional technical assistance to those Summer Food Service providers having difficulty in maintaining compliance with nutrition requirements; and

To make clear that contracts with food service management companies under the Summer Food Service program require conformance with local health authority standards.

Section 3406(g) amends sec. 13(f) of the NSLA to add authority for schools participating in the Summer Food Service program to permit children attending sites on school premises operated by the school to refuse 1 item of a meal without affecting the reimbursement for the meal.

Section 3406(h) amends sec. 13(k) of the NSLA:

To delete a requirement that Summer Food Service program institutions make “positive efforts” to use small businesses and minority-owned businesses as sources of supplies and services; and

To delete a requirement that each State establish a standard form of contract to be used by service institutions and food service management companies in the Summer Food Service program.

Section 3406(i) amends sec. 13(m) of the NSLA to revise a requirement that States and service institutions in the Summer Food Service program keep accounts and records available at all times



to a requirement that the accounts and records be available at “any reasonable time.”

Section 3406(j) amends sec. 13(n) of the NSLA to delete a Summer Food Service program requirement that State plans include plans and schedules for informing institutions of the availability of the program.

Section 3406(k) amends sec. 13(n) of the NSLA to delete Summer Food Service program requirements that State plans include (a) their method of “assessing need,” (b) their best estimate of service institutions and sites to be approved and meals to be served (including a description of estimating methods), and (c) their schedule for providing technical assistance to service institutions.

Section 3406(l) amends sec. 13(q) of the NSLA to delete Summer Food Service program requirements that States have an ongoing training and technical assistance program for private nonprofit organizations.

Section 3406(m) deletes sec. 13(p) of the NSLA, thereby deleting an out-of-date (1991) requirement to disseminate information about amendments relating to the Summer Food Service program eligibility of private nonprofit organizations.

Section 3406(n) establishes the effective date for amendments related to the Summer Food Service program as January 1, 1997.

#### *Commodity distribution*

Section 3407(a) amends sec. 14(b) of the NSLA to delete a requirement that cereal and shortening and oil products be among foods donated for the School Lunch program.

Section 3407(b) amends sec. 14(d) of the NSLA:

To delete an out-of-date (1977) requirement for a report on commodity procurement matters; and

To delete a requirement for procedures to ensure that contracts for commodity purchases are not entered into without taking into account the contracting party’s compliance with meat inspection laws and other standards relating to food wholesomeness.

Section 3407(c) amends sec. 14(g) of the NSLA to delete an out-of-date (1989) requirement for compensation to certain schools participating in a study.

Section 3407(d) deletes sec. 14(e) of the NSLA, thereby deleting a requirement for State advisory councils on the selection and distribution of commodity assistance.

#### *Child and Adult Care Food Program (CACFP)*

Section 3408(a) amends sec. 17(a) of the NSLA to delete a directive that the Secretary operate a program to assist States to “expand” food service programs for children in child care institutions.

Section 3408(b) amends sec. 17(a) of the NSLA to add a prohibition against payments under the CACFP to day care home sponsors that base payments to employees on the number of homes recruited.

Section 3408(c) amends sec. 17(d) of the NSLA to delete specific processing and technical assistance requirements on States where an institution submits an incomplete application for the CACFP.

Section 3408(d) amends sec. 17(f) of the NSLA to delete authority for reimbursements for up to four meals/supplements for children in the care of day care centers for 8 hours or more a day.

Section 3408(e) amends sec. 17(f) of the NSLA to create a new two-tiered system of reimbursements for family day care homes. It provides reduced subsidies for day care homes in middle and upper income areas of 90 cents for lunches, 25 cents for breakfasts and 10 cents for snacks and retains higher reimbursements for family day care homes in low-income areas.

Section 3408(f) amends sec. 17(f) of the NSLA:

To delete an out-of-date (1981) requirement to reduce administrative payments to CACFP sponsors;

To make optional the requirement for monthly advance payments to CACFP institutions.

Section 3408(g) amends sec. 17(g) of the NSLA to delete a requirement that the Secretary provide additional technical assistance to CACFP institutions and sponsors that are having difficulty maintaining compliance with nutrition requirements.

Section 3408(h) deletes sec. 17(k) of the NSLA containing specific requirements as to (a) States providing training, technical assistance, and monitoring under the CACFP, (b) States taking affirmative action to expand the availability of CACFP benefits, (c) the Secretary conducting demonstration projects to remove barriers to CACFP participation among day care homes in low-income areas, (d) the Secretary and States providing training and technical assistance to day care home sponsors in reaching low-income children, and (e) States, through day care home sponsors, providing information and training about child health and development.

Replaces the current specific requirements in sec. 17(k) with a general requirement that States provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the CACFP and that the Secretary assist States in developing plans to fulfill this obligation.

Section 3408(i) amends sec. 17(m) of the NSLA to revise a requirement that States and CACFP institutions keep accounts and records available at all times to a requirement that the accounts and records be available at "any reasonable time."

Section 3408(j) amend sec. 17(o) of the NSLA to delete authority for CACFP reimbursements for meals to those in adult day care centers who are not chronically impaired disabled persons. [Note: An amendment in Section 3408(a) drops the reference to "Adult" in the title of the program.]

Section 3408(k) deletes sec. 17(q) of the NSLA, thereby deleting requirements for the Secretary to provide information about the WIC program to State CACFP agencies, requirements for State agencies to provide (and update) information about the WIC program to child care institutions in the CACFP, and requirements that these child care institutions annually provide WIC information to parents.

Section 3408(l) includes conforming amendments.

Section 3408(m) establishes effective dates for amendments affecting the CACFP. In general, they are effective on enactment, but amendments restructuring day care home reimbursement rates are effective July 1, 1997. This subsection also requires that the Sec-

retary issue interim regulations related to restructuring day care home reimbursement rates and CACFP expansion funds not later than January 1, 1997, and final regulations on these items not later than July 1, 1997.

Section 3408(n) requires the Secretaries of Agriculture and Health and Human Services to undertake a study of the effects of amendments restructuring day care home reimbursement rates—due 2 years after enactment.

#### *Pilot projects*

Section 3409 amends sec. 18 of the NSLA:

To delete a requirement for a “universal free school lunch” pilot project similar to the “provision two” option allowed under sec. 11(a)(1)(C) of the NSLA;

To make optional a demonstration project for grants to provide meals/supplements to adolescents in programs outside school hours, to delete references to the specific amount of each grant, and to replace the specific sums required to be spent on this project with an authorization of appropriations (“such sums as are necessary”) for fiscal years 1997 and 1998;

To delete authority for pilot projects evaluating the effects of contracting with private for-profit and nonprofit organizations to act as a State agency in cases where the Secretary is currently administering a child nutrition program in place of a State;

To delete authority for a pilot project that assists schools in offering students additional choices of fruits, vegetables, legumes, cereals, and grain-based products (including organically produced commodities);

To delete authority for a pilot project that assists schools in offering students additional choices of dairy products, lean meat, and poultry products (including organically produced commodities); and

To delete authority for pilot projects to reduce paperwork and application and meal counting requirements and make program changes that will increase participation in school meal programs—while receiving a total Federal reimbursement equal to the prior year total adjusted for inflation and enrollment changes.

#### *Repealed authorities*

Section 3410 repeals sec. 19 of the NSLA, thereby deleting an out-of-date (1989) requirement for a report on paperwork reduction.

Section 3411 repeals sec. 23 of the NSLA, thereby deleting out-of-date (1989) requirements to provide States with income eligibility information and simplify applications.

Section 3412 repeals sec. 24 of the NSLA, thereby deleting out-of-date (1989) requirements for developing and distributing a “nutrition guidance” for child nutrition programs and revising menu planning guides.

Section 3413 repeals sec. 26 of the NSLA, thereby deleting a requirement that the Secretary contract with a nongovernmental organization to establish and maintain a clearinghouse for informa-

tion on food assistance and self-help initiatives (funded at \$200,000 in fiscal year 1996, \$150,000 in 1997, and \$100,000 in 1998).

## Chapter 2—Child Nutrition Act of 1966

### *Special Milk Program*

Section 3421 makes a technical change in Special Milk program provisions (sec. 3 of the CNA) replacing a reference to the Trust Territory of the Pacific Islands with a reference to the Commonwealth of the Northern Mariana Islands. [Note: A similar change is made throughout the bill.]

### *School Breakfast Program*

Section 3422 amends sec. 4(b) of the CNA by adding a provision stipulating that a School Breakfast program school not be required to submit a free and reduced price “policy statement” to the State after initial submission, unless there is a substantive change in school policy.

Section 3423(a) amends sec. 4(e) of the CNA to delete a requirement that the Secretary provide, through State education agencies, technical assistance and training to School Breakfast program schools to assist them in complying with nutrition requirements, as well as additional technical assistance to schools having difficulty in maintaining compliance with the requirements.

Section 3423(b) amends sec. 4 (f) and (g) of the CNA deleting requirements for start-up and expansion grants in the School Breakfast and Summer Food Service programs.

### *State administrative expenses*

Section 3424 amends sec. 7 of the CNA:

To delete permission for the Secretary to deny State administrative expense funds to a State if it does not agree to participate in any authorized study or survey conducted by the Secretary; and

To remove a requirement for submitting annual State plans for State administrative expense funds and replace it with a requirement to submit substantive plan changes.

### *General and Miscellaneous Child Nutrition Act provisions*

Section 3425 amends sec. 10 of the CNA:

To delete an out-of-date (1994) requirement for model language on competitive food sales; and

Section 3426 amends sec. 11 of the CNA to remove a prohibition on States imposing curriculum or certain other requirements on schools in carrying out the Special Milk and School Breakfast programs.

Section 3427 amends sec. 15 of the CNA to make technical and conforming changes in the Act’s definitions of “State” and “School.”

Section 3428 amends sec. 16 of the CNA to revise a requirement that States, schools, and other entities keep accounts and records available at all times to a requirement that the accounts and records be available at “any reasonable time.”

*WIC provisions*

Section 3429(a) amends sec. 17(b)(15) of the CNA to make clear that, after 365 days in “a temporary accommodation,” persons will not be deemed homeless for purposes of the WIC program.

Section 3429(b) amends sec. 17(c) of the CNA to delete a requirement that the Secretary “promote” the WIC program through materials and public service announcements in English and other appropriate languages.

Section 3429(c) amends sec. 17(d) of the CNA to delete a requirement that the Secretary report biennially to Congress and the National Advisory Council on Maternal, Infant, and Fetal Nutrition on the characteristics of WIC participants, participation by migrant farmworker families, and other appropriate matters.

Section 3429(d) amends sec. 17(e) of the CNA:

To allow, rather than require, State agencies to provide drug abuse education to WIC participants and caretakers;

To delete the requirement for annual State-agency evaluations of nutrition education and breastfeeding promotion/support activities, including participants’ views.

To remove specific requirements that State agencies (a) ensure information about food stamps, the AFDC program, and child support enforcement programs is provided to WIC recipients, adds a general requirement that State agencies may provide local agencies with materials about other programs for which WIC recipients may be eligible;

To remove a requirement that State agencies ensure that local WIC agencies maintain and make available a list of local resources for substance abuse and counseling and replace it with an option for local agencies to do so; and

To delete specific authority for local WIC agencies to use a “master file” to document and monitor the provision of nutrition education services to those required to be included in group nutrition education classes.

Section 3429(e) amends section 17(f) of the CNA:

To revise the State plan submission requirement to stipulate that, instead of annually submitting a State plan for the WIC program, States only be required to submit substantive changes in their initial plan for the Secretary’s approval;

To remove a requirement that State WIC plans include plans to coordinate with a specific list of other programs replace it with a general requirement that State plans include plans to coordinate WIC operations with other services or programs that may benefit WIC applicants or participants;

To add a requirement that State WIC plans for unserved and underserved areas specifically include plans to improve program access for those who are employed or who reside in rural areas;

Replaces a requirement that State WIC plans include plans to provide benefits to those most in need and to provide eligible persons not participating in the WIC program with information on the program and how to with a requirement to focus on women in early months of pregnancy, including migrants.

Replaces a requirement that States opting to provide WIC benefits to incarcerated persons include in their State WIC plans specific provisions for doing so;

To delete specific requirements as to State WIC plans provisions to improve access to those who are employed or who reside in rural areas (see above for more general replacement language);

To delete a requirement that States opting to request “funds conversion authority” (using food money for administration) include in their State WIC plan an estimate of the increased participation that will result and how the estimate was developed;

To revise authority for the Secretary to require in State WIC plans “such other information as the Secretary may require” to a stipulation that the plans must include such other information as the Secretary may “reasonably” require;

To delete a requirement that State agencies establish procedures for public comment on development of the State’s WIC plan;

To delete specific processing requirements (including time frames) on State agencies when approving local agencies applying for the WIC program;

To delete specific requirements on State agencies and local WIC agencies as to public announcement and distribution of information about the WIC program (including requirements as to distribution of information to and eligibility certification of women in the early months of pregnancy and those in the care of hospitals);

To delete an out-of-date (1994) requirement on State agencies to report on procedures to reduce purchases of low-iron infant formula;

To revise a requirement that State and local WIC agencies keep accounts and records available at all times to a requirement that the accounts and records be available at “any reasonable time;”

To delete a requirement that WIC suspension or termination notices specifically contain information on the categories of participants whose benefits are being suspended or terminated because of a shortage of funds;

To delete a requirement that the Secretary establish standards that will ensure sufficient State agency staff;

To delete a provision that stipulates that products specifically designed for pregnant, postpartum, or breastfeeding women, or infants, may be available under the WIC if they are commercially available or are approved by the Secretary based on clinical tests;

To make optional current requirements that State agencies (a) provide nutrition education, breastfeeding promotion, and drug abuse education in languages other than English and (b) use appropriate foreign language materials in areas where a substantial number of low-income households speak a language other than English;

To delete specific authority for State agencies to adopt methods of delivering WIC benefits to accommodate the special needs of those who are incarcerated; and

To make optional a current requirement that State agencies provide information about other sources of food assistance to WIC applicants who cannot be served.

Section 3429(f) amends sec. 17(g) of the CNA to delete an out-of-date report on those income-eligible for the WIC program based on the 1990 Census.

Section 3429(g) amends sec. 17(h) of the CNA:

To delete out-of-date (1989) requirements relating to cost containment measures;

To delete a requirement for a pilot project on using “universal product codes” to aid vendors in providing the correct infant formula to WIC participants;

To delete a number of specific requirements as to how the Secretary is to carry out a requirement (which is retained) to offer to solicit cost-containment bids on behalf of State agencies;

To delete requirements that the Secretary promote joint State purchases of infant formula and other supplemental foods, encourage the use of cost containment procedures for other supplemental foods, and inform State agencies of the benefits of cost containment and provide technical assistance in using cost containment procedures; and

To modify optional a current requirement for the Secretary to use up to \$10 million a year in carryover funds for WIC infrastructure development, special projects of regional or national significance, and special breastfeeding promotion and support projects to eliminate special breastfeeding and support projects.

Section 3429(h) amends sec. 17(k) of the CNA to provide that the National Advisory Council on Maternal, Infant, and Fetal Nutrition elect its chairman and vice chairman, rather than having them designated by the Secretary.

Section 3429(i) strikes sec. 17 (n), (o), and (p) of the CNA, thereby:

Deleting (a) an out-of-date (1989) study on drug abuse education, (b) a requirement for preparing and distributing drug abuse education materials, (c) authorization of funding (“such sums”) for distributing drug abuse education materials and making referrals under drug abuse education programs, and (d) a requirement that State agencies provide drug abuse education to WIC participants;

Deleting an out-of-date (1992) pilot for WIC clinics in community colleges offering nursing education programs; and

Deleting out-of-date (1994) authority for grants to State agencies to improve WIC information and data systems.

Section 3429(j) amends sec. 17 of the CNA by adding provisions that require regulations disqualifying WIC vendors that have been disqualified for participation in the Food Stamp Program. The WIC disqualification would be for the same period as in food stamps and would not be subject to separate administrative or judicial review.

#### *Nutrition Education and Training Program*

Section 3430 repeals sec. 18 of the CNA, thereby deleting out-of-date authority to make grants for nutrition education (authorized elsewhere).

Section 3431(a) amends sec. 19 of the CNA to replace the current statements of “findings” and “purpose” for the Nutrition Education

and Training program with (a) a finding that effective dissemination of scientifically valid information to children in school meal programs should be encouraged and (b) a statement that the program's purpose is to establish a system of grants to State education agencies for comprehensive nutrition education and training.

Section 3431(b) amends sec. 19(f) of the CNA:

To delete references to specific activities that States may use Nutrition Education and Training program funding for: (a) funding a nutrition component in consumer, homemaking and health education programs, (b) instructing teachers and school staff on how to promote better nutritional health and motivate children from a variety of linguistic and cultural backgrounds to practice sound eating habits, (c) developing means of providing nutrition education in "language appropriate" materials through after-school programs, (d) training related to healthy and nutritious meals, (e) creating instructional programming on the "Food Guide Pyramid" (including "language appropriate" materials) for teachers, food service staff, and parents, (f) funding aspects of the Secretary's "Strategic Plan for Nutrition and Education," (g) encouraging public service advertisements to promote healthy eating habits for children, including "language appropriate" materials and advertisements, (h) coordinating and promoting nutrition education and training activities in local school districts, (i) contracting with public and private nonprofit education institutions to conduct nutrition education and training, (j) increasing public awareness of the importance of breakfasts, and (k) coordinating and promoting nutrition education and training activities (including those under the summer and child care programs) and adding a provision allowing funds to be used for other appropriate related activities as determined by the State.

To delete authority for planning and assessment grants to States desiring to receive Nutrition Education and Training program funds; and

To delete a provision stating that nothing in the Nutrition Education and Training program authorizing language prohibits activities involving adults.

Section 3431(c) amends sec. 19(g) of the CNA to revise a requirement that State education agencies keep Nutrition Education and Training program accounts and records available at all times to a requirement that the accounts and records be available at "any reasonable time."

Section 3431(d) amends sec. 19(h) of the CNA:

To delete specific requirements as to the content of each State's nutrition education coordinator's required assessment of the State's nutrition education needs; and

To delete specific requirements as to the content and use of each State's required comprehensive nutrition education plan.

Section 3431(e) amends sec. 19 of the CNA to convert the Nutrition Education and Training program from an "entitlement" program to a "discretionary" program.

Section 3431(f) amends sec. 19 of the CNA to delete an out-of-date (1990) requirement for an assessment of nutrition education needs.



Section 3431(g) establishes the effective date for amendments affecting the Nutrition Education and Training program as October 1, 1996.

### Chapter 3—Miscellaneous Provisions

Section 3441 requires the Secretary, in consultation with local, State, and regional administrators of school lunch, school breakfast and summer food programs, to develop proposed changes to the regulations for such programs for the purpose of simplifying and coordinating those programs into a comprehensive meal program.

#### SUBTITLE E—RELATED PROVISIONS

Section 3501(a) requires the Secretary of Health and Human Services to produce and publish poverty estimates for each State, county, place (defined as local units of government for which data is produced in the decennial census), and school district. The data may be produced using any reliable method.

Section 3501(b) requires tabulations of poverty by the number of children aged 5 to 17 for each school district. The first data under this section for States, counties, and local units of general government would be published in 1997, and at least every 2 years thereafter. The first data for school districts would be published in 1999, and at least every 2 years thereafter.

Section 3501(c) allows the Secretary of Health and Human Services to aggregate school districts to the extent necessary to achieve reliable data. The section requires that aggregated data be appropriately identified and accompanied by a detailed explanation of the methodology used.

Section 3501(d) requires the Secretary of Health and Human Services to notify Congress if the Secretary is unable to produce the required data for any geographic area specified in subsection (a), and to give the reasons for any such exclusion.

Section 3501(e) directs the Secretary of Health and Human Services to use the same criteria relating to poverty, including periodic adjustments for inflation, that is currently used.

Section 3501(f) requires the Secretary of Health and Human Services to consult with the Secretary of Education in producing poverty data for school districts.

Section 3501(g) defines the term Secretary for purposes of this section to mean the Secretary of Health and Human Services.

Section 3501(h) authorizes \$1.5 million for each of fiscal years 1997, 1998, 1999, and 2000, to carry out the provisions of this section.

Section 3502 States the sense of the Congress that this Title should not increase the number of hungry, homeless, poor, or medically uninsured children.

Section 3503 provides that in the event that this Title does increase the number of hungry, homeless, poor, or medically uninsured children the end of Fiscal Year 1997 that Congress shall act to prevent any further increase.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF  
THE COMMITTEE

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the committee's oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee estimates that the enactment into law of the committee recommendations will have no significant inflationary impact on prices and costs in the operation of the national economy. It is the judgment of the committee that the inflationary impact of this legislation as a component of the Federal budget is negligible.

GOVERNMENT REFORM AND OVERSIGHT

With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of the committee recommendations.

COMMITTEE ESTIMATE

Clause 7 of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the committee of the costs which would be incurred in carrying out the committee recommendations. However, clause 7(d) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

APPLICATION OF LAW TO LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch. The bill establishes work requirements for persons receiving cash public assistance, provides increases in funding for child care, increases in funding for protecting children from abuse, and streamlines nutrition assistance programs in order to reduce administrative burdens. This bill does not otherwise prohibit legislative branch employees from receiving the benefits of this legislation.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act requires a statement of whether the provisions of the reported bill include unfunded mandates. The committee received a letter regarding unfunded mandates from the Director of the Congressional Budget Office. [See Committee on the Budget Unfunded Mandate Statement on page 2014 and consolidated Congressional Budget Office Estimate on page 1940.]

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

With respect to the requirement of clause 2(1)(3)(B) of rule XI of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 2(1)(3)(C) of rule XI of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the committee has received a cost estimate for the committee recommendations from the Director of the Congressional Budget Office. [See consolidated Congressional Budget Office Cost Estimate on page 1940.]

ROLLCALL VOTES

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Roll call No. 1, Bill: Welfare Reform, Date: June 12, 1996, Amendment number 2, Passed: 23–14.

Sponsor/Amendment: Mr. Talent, Mr. Hutchinson. An amendment to increase minimum hours of work for purposes of meeting work participation requirements, to 20 in 1996–98, 25 in 1999, 30 in 2000 and 2001, and 35 thereafter.

Member	Aye	No	Present	Not voting
Chairman Goodling .....	X			
Mr. Petri .....	X			
Mrs. Roukema .....	X			
Mr. Gunderson .....	X			
Mr. Fawell .....	X			
Mr. Ballenger .....	X			
Mr. Barrett .....	X			
Mr. Cunningham .....	X			
Mr. Hoekstra .....	X			
Mr. McKeon .....	X			
Mr. Castle .....		X		
Mrs. Meyers .....	X			
Mr. Johnson .....	X			
Mr. Talent .....	X			
Mr. Greenwood .....	X			
Mr. Hutchinson .....	X			
Mr. Knollenberg .....	X			
Mr. Riggs .....				X
Mr. Graham .....				X
Mr. Weldon .....				X
Mr. Funderburk .....				X
Mr. Souder .....	X			
Mr. McIntosh .....	X			
Mr. Norwood .....	X			
Mr. Clay .....				X
Mr. Miller .....	X			
Mr. Kildee .....		X		
Mr. Williams .....		X		
Mr. Martinez .....		X		
Mr. Owens .....		X		
Mr. Sawyer .....		X		
Mr. Payne .....				X
Mrs. Mink .....		X		
Mr. Andrews .....		X		
Mr. Reed .....	X			
Mr. Roemer .....		X		
Mr. Becerra .....		X		
Mr. Scott .....		X		
Mr. Green .....	X			

Member	Aye	No	Present	Not voting
Ms. Woolsey .....		X		
Mr. Romero-Barcelo .....		X		
Mr. Fattah .....		X		
Mr. Blumenauer .....	X			

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Roll call No. 2, Bill: Welfare Reform, Date: June 12, 1996.

Appeal the ruling of the Chair—Sustained 16–15.

Sponsor/Amendment: Mr. Reed appeals the ruling of the chair in regard to offering his amendment that was ruled, “not germane.”

Vote was to sustain the ruling of the Chair.

Member	Aye	No	Present	Not voting
Chairman Goodling .....	X			
Mr. Petri .....				X
Mrs. Roukema .....	X			
Mr. Gunderson .....	X			
Mr. Fawell .....	X			
Mr. Ballenger .....	X			
Mr. Barrett .....	X			
Mr. Cunningham .....	X			
Mr. Hoekstra .....	X			
Mr. McKeon .....				x
Mr. Castle .....				X
Mrs. Meyers .....	X			
Mr. Johnson .....				X
Mr. Talent .....	X			
Mr. Greenwood .....	X			
Mr. Hutchinson .....	X			
Mr. Knollenberg .....	X			
Mr. Riggs .....				X
Mr. Graham .....	X			
Mr. Weldon .....				X
Mr. Funderburk .....				X
Mr. Souder .....	X			
Mr. McIntosh .....	X			
Mr. Norwood .....				X
Mr. Clay .....		X		
Mr. Miller .....				X
Mr. Kildee .....		X		
Mr. Williams .....				X
Mr. Martinez .....		X		
Mr. Owens .....		X		
Mr. Sawyer .....				X
Mr. Payne .....		X		
Mrs. Mink .....		X		
Mr. Andrews .....		X		
Mr. Reed .....		X		
Mr. Roemer .....		X		
Mr. Becerra .....				X
Mr. Scott .....		X		
Mr. Green .....		X		
Ms. Woolsey .....		X		
Mr. Romero-Barcelo .....		X		
Mr. Fattah .....		X		
Mr. Blumenauer .....		X		

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Roll call No. 3, Bill: Welfare Reform, Date: June 12, 1996,  
Amendment number 4A, Passed: 17–16.

Sponsor/Amendment: Mr. Martinez amendment to the Talent/Hutchinson amendment regarding job search category.

Member	Aye	No	Present	Not voting
Chairman Goodling .....		X		
Mr. Petri .....				X
Mrs. Roukema .....				X
Mr. Gunderson .....	X			
Mr. Fawell .....		X		
Mr. Ballenger .....		X		
Mr. Barrett .....		X		
Mr. Cunningham .....		X		
Mr. Hoekstra .....		X		
Mr. McKeon .....		X		
Mr. Castle .....	X			
Mrs. Meyers .....		X		
Mr. Johnson .....		X		
Mr. Talent .....		X		
Mr. Greenwood .....		X		
Mr. Hutchinson .....		X		
Mr. Knollenberg .....		X		
Mr. Riggs .....				X
Mr. Graham .....		X		
Mr. Weldon .....				X
Mr. Funderburk .....		X		
Mr. Souder .....		X		
Mr. McIntosh .....				X
Mr. Norwood .....				X
Mr. Clay .....	X			
Mr. Miller .....	X			
Mr. Kildee .....	X			
Mr. Williams .....				X
Mr. Martinez .....	X			
Mr. Owens .....	X			
Mr. Sawyer .....	X			
Mr. Payne .....	X			
Mrs. Mink .....	X			
Mr. Andrews .....	X			
Mr. Reed .....	X			
Mr. Roemer .....	X			
Mr. Becerra .....				X
Mr. Scott .....	X			
Mr. Green .....				X
Ms. Woolsey .....	X			
Mr. Romero-Barcelo .....				X
Mr. Fattah .....	X			
Mr. Blumenauer .....	X			

#### COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Roll call No. 4, Bill: Welfare Reform, Date: June 12, 1996, Amendment number 5, Passed (as amended): 23-10.

Sponsor/Amendment: Mr. Roemer amendment that requires States to develop Individual Responsibility Plan for welfare recipients in work activities. This amendment was amended by the Gunderson amendment.

Member	Aye	No	Present	Not voting
Chairman Goodling .....	X			
Mr. Petri .....	X			
Mrs. Roukema .....	X			
Mr. Gunderson .....	X			
Mr. Fawell .....	X			

Member	Aye	No	Present	Not voting
Mr. Ballenger .....	X			
Mr. Barrett .....	X			
Mr. Cunningham .....	X			
Mr. Hoekstra .....		X		
Mr. McKeon .....		X		
Mr. Castle .....				X
Mrs. Meyers .....		X		
Mr. Johnson .....				X
Mr. Talent .....		X		
Mr. Greenwood .....	X			
Mr. Hutchinson .....		X		
Mr. Knollenberg .....	X			
Mr. Riggs .....		X		
Mr. Graham .....		X		
Mr. Weldon .....		X		
Mr. Funderburk .....				X
Mr. Souder .....		X		
Mr. McIntosh .....				X
Mr. Norwood .....		X		
Mr. Clay .....	X			
Mr. Miller .....	X			
Mr. Kildee .....	X			
Mr. Williams .....				X
Mr. Martinez .....	X			
Mr. Owens .....	X			
Mr. Sawyer .....	X			
Mr. Payne .....				X
Mrs. Mink .....	X			
Mr. Andrews .....	X			
Mr. Reed .....	X			
Mr. Roemer .....	X			
Mr. Becerra .....				X
Mr. Scott .....	X			
Mr. Green .....				X
Ms. Woolsey .....	X			
Mr. Romero-Barceló .....				X
Mr. Fattah .....	X			
Mr. Blumenauer .....				

## COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Roll call No. 5, Bill: Welfare Reform, Date: June 12, 1996,  
Amendment number 6, Defeated: 12-21.

Sponsor/Amendment: Mrs. Mink amendment to change State option to exempt single parents of a child under age 1 from work requirements to requirement that States exempt such parents.

Member	Aye	No	Present	Not voting
Chairman Goodling .....		X		
Mr. Petri .....		X		
Mrs. Roukema .....		X		
Mr. Gunderson .....		X		
Mr. Fawell .....		X		
Mr. Ballenger .....		X		
Mr. Barrett .....		X		
Mr. Cunningham .....		X		
Mr. Hoekstra .....		X		
Mr. McKeon .....		X		
Mr. Castle .....		X		
Mrs. Meyers .....		X		
Mr. Johnson .....				X
Mr. Talent .....		X		
Mr. Greenwood .....				X

Member	Aye	No	Present	Not voting
Mr. Hutchinson .....				X
Mr. Knollenberg .....		X		
Mr. Riggs .....				X
Mr. Graham .....		X		
Mr. Weldon .....		X		
Mr. Funderburk .....				X
Mr. Souder .....		X		
Mr. McIntosh .....				X
Mr. Norwood .....		X		
Mr. Clay .....	X			
Mr. Miller .....				X
Mr. Kildee .....				X
Mr. Williams .....	X			
Mr. Martinez .....	X			
Mr. Owens .....	X			
Mr. Sawyer .....	X			
Mr. Payne .....	X			
Mrs. Mink .....	X			
Mr. Andrews .....		X		
Mr. Reed .....		X		
Mr. Roemer .....		X		
Mr. Becerra .....	X			
Mr. Scott .....	X			
Mr. Green .....	X			
Ms. Woolsey .....	X			
Mr. Romero-Barceló .....				X
Mr. Fattah .....				X
Mr. Blumenauer .....	X			

#### COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Roll call No. 6, Bill: Welfare Reform, Date: June 12, 1996,  
Amendment number 7, Defeated: 15–21.

Sponsor/Amendment: Mrs. Mink amendment to require that all  
participants in work activities be provided medical insurance guar-  
anteed by the State.

Member	Aye	No	Present	Not voting
Chairman Goodling .....		X		
Mr. Petri .....		X		
Mrs. Roukema .....		X		
Mr. Gunderson .....		X		
Mr. Fawell .....		X		
Mr. Ballenger .....		X		
Mr. Barrett .....		X		
Mr. Cunningham .....		X		
Mr. Hoekstra .....		X		
Mr. McKeon .....		X		
Mr. Castle .....		X		
Mrs. Meyers .....		X		
Mr. Johnson .....		X		
Mr. Talent .....		X		
Mr. Greenwood .....				X
Mr. Hutchinson .....				X
Mr. Knollenberg .....		X		
Mr. Riggs .....		X		
Mr. Graham .....		X		
Mr. Weldon .....		X		
Mr. Funderburk .....				X
Mr. Souder .....		X		
Mr. McIntosh .....				X
Mr. Norwood .....		X		
Mr. Clay .....	X			

Member	Aye	No	Present	Not voting
Mr. Miller .....	X			
Mr. Kildee .....				X
Mr. Williams .....				X
Mr. Martinez .....	X			
Mr. Owens .....	X			
Mr. Sawyer .....	X			
Mr. Payne .....	X			
Mrs. Mink .....	X			
Mr. Andrews .....	X			
Mr. Reed .....	X			
Mr. Roemer .....		X		
Mr. Becerra .....	X			
Mr. Scott .....	X			
Mr. Green .....	X			
Ms. Woolsey .....	X			
Mr. Romero-Barceló .....				X
Mr. Fattah .....	X			
Mr. Blumenauer .....	X			

## COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Rollcall No. 7, Bill: Welfare Reform, Date: June 12, 1996, Amendment number 8, Defeated: 13–25.

Sponsor/Amendment: Mrs. Mink amendment to provide that no participant can be terminated/penalized if no job is available.

Member	Aye	No	Present	Not voting
Chairman Goodling .....		X		
Mr. Petri .....		X		
Mrs. Roukema .....		X		
Mr. Gunderson .....		X		
Mr. Fawell .....		X		
Mr. Ballenger .....		X		
Mr. Barrett .....		X		
Mr. Cunningham .....		X		
Mr. Hoekstra .....		X		
Mr. McKeon .....		X		
Mr. Castle .....		X		
Mrs. Meyers .....		X		
Mr. Johnson .....		X		
Mr. Talent .....		X		
Mr. Greenwood .....		X		
Mr. Hutchinson .....				X
Mr. Knollenberg .....		X		
Mr. Riggs .....		X		
Mr. Graham .....		X		
Mr. Weldon .....		X		
Mr. Funderburk .....		X		
Mr. Souder .....		X		
Mr. McIntosh .....				X
Mr. Norwood .....		X		
Mr. Clay .....	X			
Mr. Miller .....	X			
Mr. Kildee .....				X
Mr. Williams .....				X
Mr. Martinez .....	X			
Mr. Owens .....	X			
Mr. Sawyer .....	X			
Mr. Payne .....	X			
Mrs. Mink .....	X			
Mr. Andrews .....		X		
Mr. Reed .....		X		
Mr. Roemer .....		X		



Member	Aye	No	Present	Not voting
Mr. Becerra .....	X			
Mr. Scott .....	X			
Mr. Green .....	X			
Ms. Woolsey .....	X			
Mr. Romero-Barceló .....				X
Mr. Fattah .....	X			
Mr. Blumenauer .....	X			

COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Rollcall No. 8, Bill: Welfare Reform, Date: June 12, 1996, Amendment number 9, Defeated: 16–20.

Sponsor/Amendment: Mr. Scott amendment to define postsecondary education as an allowable “work activity” for the State to meet the mandatory work requirements.

Member	Aye	No	Present	Not voting
Chairman Goodling .....		X		
Mr. Petri .....		X		
Mrs. Roukema .....		X		
Mr. Gunderson .....		X		
Mr. Fawell .....		X		
Mr. Ballenger .....		X		
Mr. Barrett .....		X		
Mr. Cunningham .....		X		
Mr. Hoekstra .....		X		
Mr. McKeon .....		X		
Mr. Castle .....			X	
Mrs. Meyers .....		X		
Mr. Johnson .....				X
Mr. Talent .....		X		
Mr. Greenwood .....		X		
Mr. Hutchinson .....		X		
Mr. Knollenberg .....		X		
Mr. Riggs .....				X
Mr. Graham .....		X		
Mr. Weldon .....		X		
Mr. Funderburk .....				X
Mr. Souder .....		X		
Mr. McIntosh .....		X		
Mr. Norwood .....		X		
Mr. Clay .....	X			
Mr. Miller .....	X			
Mr. Kildee .....	X			
Mr. Williams .....				X
Mr. Martinez .....	X			
Mr. Owens .....				X
Mr. Sawyer .....	X			
Mr. Payne .....	X			
Mrs. Mink .....	X			
Mr. Andrews .....	X			
Mr. Reed .....	X			
Mr. Roemer .....	X			
Mr. Becerra .....	X			
Mr. Scott .....	X			
Mr. Green .....	X			
Ms. Woolsey .....	X			
Mr. Romero-Barceló .....				X
Mr. Fattah .....	X			
Mr. Blumenauer .....	X			

## COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Rollcall No. 9, Bill: Welfare Reform, Date: June 12, 1996, Amendment number 13, Defeated: 18–20 (as amended).

Sponsor/Amendment: Mr. Scott amendment to add postsecondary education as a “working activity.” Amended by Mr. Goodling amendment to change 2 years to 3 semesters.

Member	Aye	No	Present	Not voting
Chairman Goodling .....	X			
Mr. Petri .....				X
Mrs. Roukema .....				X
Mr. Gunderson .....		X		
Mr. Fawell .....		X		
Mr. Ballenger .....		X		
Mr. Barrett .....		X		
Mr. Cunningham .....		X		
Mr. Hoekstra .....		X		
Mr. McKeon .....		X		
Mr. Castle .....	X			
Mrs. Meyers .....		X		
Mr. Johnson .....		X		
Mr. Talent .....		X		
Mr. Greenwood .....		X		
Mr. Hutchinson .....		X		
Mr. Knollenberg .....		X		
Mr. Riggs .....		X		
Mr. Graham .....		X		
Mr. Weldon .....		X		
Mr. Funderburk .....		X		
Mr. Souder .....		X		
Mr. McIntosh .....				X
Mr. Norwood .....		X		
Mr. Clay .....	X			
Mr. Miller .....				X
Mr. Kildee .....	X			
Mr. Williams .....	X			
Mr. Martinez .....	X			
Mr. Owens .....	X			
Mr. Sawyer .....	X			
Mr. Payne .....	X			
Mrs. Mink .....	X			
Mr. Andrews .....	X			
Mr. Reed .....	X			
Mr. Roemer .....		X		
Mr. Becerra .....	X			
Mr. Scott .....	X			
Mr. Green .....	X			
Ms. Woolsey .....	X			
Mr. Romero-Barceló .....				X
Mr. Fattah .....	X			
Mr. Blumenauer .....	X			

## COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Rollcall No. 10, Bill: Welfare Reform, Date: June 12, 1996, Amendment number 15, Defeated: 17–22.

Sponsor/Amendment: Mr. Reed amendment to strike Title I and replace with a Work First Program and Workfare Program.

Member	Aye	No	Present	Not voting
Chairman Goodling .....		X		
Mr. Petri .....				X

Member	Aye	No	Present	Not voting
Mrs. Roukema .....		X		
Mr. Gunderson .....		X		
Mr. Fawell .....		X		
Mr. Ballenger .....		X		
Mr. Barrett .....		X		
Mr. Cunningham .....		X		
Mr. Hoekstra .....		X		
Mr. McKeon .....		X		
Mr. Castle .....		X		
Mrs. Meyers .....		X		
Mr. Johnson .....		X		
Mr. Talent .....		X		
Mr. Greenwood .....		X		
Mr. Hutchinson .....		X		
Mr. Knollenberg .....		X		
Mr. Riggs .....		X		
Mr. Graham .....		X		
Mr. Weldon .....		X		
Mr. Funderburk .....		X		
Mr. Souder .....		X		
Mr. McIntosh .....				X
Mr. Norwood .....		X		
Mr. Clay .....				X
Mr. Miller .....				X
Mr. Kildee .....	X			
Mr. Williams .....	X			
Mr. Martinez .....	X			
Mr. Owens .....	X			
Mr. Sawyer .....	X			
Mr. Payne .....	X			
Mrs. Mink .....	X			
Mr. Andrews .....	X			
Mr. Reed .....	X			
Mr. Roemer .....	X			
Mr. Becerra .....	X			
Mr. Scott .....	X			
Mr. Green .....	X			
Ms. Woolsey .....	X			
Mr. Romero-Barceló .....				X
Mr. Fattah .....	X			
Mr. Blumenauer .....	X			

#### COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Rollcall No. 11, Bill: Welfare Reform, Date: June 12, 1996,  
Amendment number 16, Defeated: 18–22.

Sponsor/Amendment: Mr. Becerra amendment regarding mini-  
mum wage requirement.

Member	Aye	No	Present	Not voting
Chairman Goodling .....		X		
Mr. Petri .....				X
Mrs. Roukema .....		X		
Mr. Gunderson .....		X		
Mr. Fawell .....		X		
Mr. Ballenger .....		X		
Mr. Barrett .....		X		
Mr. Cunningham .....		X		
Mr. Hoekstra .....		X		
Mr. McKeon .....		X		
Mr. Castle .....		X		
Mrs. Meyers .....		X		
Mr. Johnson .....		X		

Member	Aye	No	Present	Not voting
Mr. Talent .....		X		
Mr. Greenwood .....		X		
Mr. Hutchinson .....		X		
Mr. Knollenberg .....		X		
Mr. Riggs .....		X		
Mr. Graham .....		X		
Mr. Weldon .....		X		
Mr. Funderburk .....		X		
Mr. Souder .....		X		
Mr. McIntosh .....				X
Mr. Norwood .....		X		
Mr. Clay .....	X			
Mr. Miller .....	X			
Mr. Kildee .....	X			
Mr. Williams .....	X			
Mr. Martinez .....	X			
Mr. Owens .....	X			
Mr. Sawyer .....	X			
Mr. Payne .....	X			
Mrs. Mink .....	X			
Mr. Andrews .....	X			
Mr. Reed .....	X			
Mr. Roemer .....	X			
Mr. Becerra .....	X			
Mr. Scott .....	X			
Mr. Green .....	X			
Ms. Woolsey .....	X			
Mr. Romero-Barceló .....				X
Mr. Fattah .....	X			
Mr. Blumenauer .....	X			

## COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Rollcall No. 12, Bill: Welfare Reform, Date: June 12, 1996,  
Amendment number 18, Defeated: 16–18.

Sponsor/Amendment: Mr. Payne amendment to strike the repeal  
of the Abandoned Infants Act.

Member	Aye	No	Present	Not voting
Chairman Goodling .....		X		
Mr. Petri .....				X
Mrs. Roukema .....				X
Mr. Gunderson .....		X		
Mr. Fawell .....		X		
Mr. Ballenger .....		X		
Mr. Barrett .....		X		
Mr. Cunningham .....		X		
Mr. Hoekstra .....		X		
Mr. McKeon .....		X		
Mr. Castle .....		X		
Mrs. Meyers .....				X
Mr. Johnson .....		X		
Mr. Talent .....		X		
Mr. Greenwood .....		X		
Mr. Hutchinson .....		X		
Mr. Knollenberg .....		X		
Mr. Riggs .....		X		
Mr. Graham .....		X		
Mr. Weldon .....		X		
Mr. Funderburk .....				X
Mr. Souder .....				X
Mr. McIntosh .....		X		
Mr. Norwood .....				X

Member	Aye	No	Present	Not voting
Mr. Clay .....	X			
Mr. Miller .....	X			
Mr. Kildee .....	X			
Mr. Williams .....	X			
Mr. Martinez .....	X			
Mr. Owens .....				X
Mr. Sawyer .....	X			
Mr. Payne .....	X			
Mrs. Mink .....	X			
Mr. Andrews .....	X			
Mr. Reed .....	X			
Mr. Roemer .....	X			
Mr. Becerra .....	X			
Mr. Scott .....	X			
Mr. Green .....	X			
Ms. Woolsey .....	X			
Mr. Romero-Barceló .....				X
Mr. Fattah .....	X			
Mr. Blumenauer .....				X

## COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Rollcall No. 13, Bill: Welfare Reform, Date: June 12, 1996,  
Amendment number 28, Defeated: 16–17 with 1 voting present.

Sponsor/Amendment: Mr. Becerra amendment to mandate that  
nutritional educational materials be provided in foreign languages.

Member	Aye	No	Present	Not voting
Chairman Goodling .....		X		
Mr. Petri .....				X
Mrs. Roukema .....				X
Mr. Gunderson .....			X	
Mr. Fawell .....		X		
Mr. Ballenger .....		X		
Mr. Barrett .....		X		
Mr. Cunningham .....		X		
Mr. Hoekstra .....		X		
Mr. McKeon .....		X		
Mr. Castle .....		X		
Mrs. Meyers .....				X
Mr. Johnson .....		X		
Mr. Talent .....		X		
Mr. Greenwood .....		X		
Mr. Hutchinson .....		X		
Mr. Knollenberg .....		X		
Mr. Riggs .....		X		
Mr. Graham .....		X		
Mr. Weldon .....		X		
Mr. Funderburk .....				X
Mr. Souder .....				X
Mr. McIntosh .....		X		
Mr. Norwood .....				X
Mr. Clay .....	X			
Mr. Miller .....	X			
Mr. Kildee .....	X			
Mr. Williams .....	X			
Mr. Martinez .....	X			
Mr. Owens .....				X
Mr. Sawyer .....	X			
Mr. Payne .....	X			
Mrs. Mink .....	X			
Mr. Andrews .....	X			
Mr. Reed .....	X			
Mr. Roemer .....	X			

Member	Aye	No	Present	Not voting
Mr. Becerra .....	X	.....	.....	.....
Mr. Scott .....	X	.....	.....	.....
Mr. Green .....	X	.....	.....	.....
Ms. Woolsey .....	X	.....	.....	.....
Mr. Romero-Barceló .....	.....	.....	.....	X
Mr. Fattah .....	X	.....	.....	.....
Mr. Blumenauer .....	.....	.....	.....	X

# COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Rollcall No. 14, Bill: Welfare Reform, Date: June 12, 1996,  
Passed: 23–11.

Motion to transmit committee print to the Committee on the Budget as this committee's recommendations for Budget Reconciliation upon adoption by the House and Senate of the Reconciliation Instructions for fiscal year 1997.

Member	Aye	No	Present	Not voting
Chairman Goodling .....	X	.....	.....	.....
Mr. Petri .....	.....	.....	.....	X
Mrs. Roukema .....	.....	.....	.....	X
Mr. Gunderson .....	X	.....	.....	.....
Mr. Fawell .....	X	.....	.....	.....
Mr. Ballenger .....	X	.....	.....	.....
Mr. Barrett .....	X	.....	.....	.....
Mr. Cunningham .....	X	.....	.....	.....
Mr. Hoekstra .....	X	.....	.....	.....
Mr. McKeon .....	X	.....	.....	.....
Mr. Castle .....	X	.....	.....	.....
Mrs. Meyers .....	.....	.....	.....	X
Mr. Johnson .....	X	.....	.....	.....
Mr. Talent .....	X	.....	.....	.....
Mr. Greenwood .....	X	.....	.....	.....
Mr. Hutchinson .....	X	.....	.....	.....
Mr. Knollenberg .....	X	.....	.....	.....
Mr. Riggs .....	X	.....	.....	.....
Mr. Graham .....	X	.....	.....	.....
Mr. Weldon .....	X	.....	.....	.....
Mr. Funderburk .....	.....	.....	.....	X
Mr. Souder .....	.....	.....	.....	X
Mr. McIntosh .....	X	.....	.....	.....
Mr. Norwood .....	.....	.....	.....	X
Mr. Clay .....	.....	X	.....	.....
Mr. Miller .....	.....	X	.....	.....
Mr. Kildee .....	.....	X	.....	.....
Mr. Williams .....	X	.....	.....	.....
Mr. Martinez .....	.....	X	.....	.....
Mr. Owens .....	.....	.....	.....	X
Mr. Sawyer .....	X	.....	.....	.....
Mr. Payne .....	.....	X	.....	.....
Mrs. Mink .....	.....	X	.....	.....
Mr. Andrews .....	.....	X	.....	.....
Mr. Reed .....	X	.....	.....	.....
Mr. Roemer .....	X	.....	.....	.....
Mr. Becerra .....	.....	X	.....	.....
Mr. Scott .....	.....	X	.....	.....
Mr. Green .....	X	.....	.....	.....
Ms. Woolsey .....	.....	X	.....	.....
Mr. Romero-Barceló .....	.....	.....	.....	X
Mr. Fattah .....	.....	X	.....	.....
Mr. Blumenauer .....	.....	.....	.....	X

CHANGES IN EXISTING LAW MADE BY TITLE III OF THE BILL, AS  
REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

**SOCIAL SECURITY ACT**

\* \* \* \* \*

**PART A—AID TO FAMILIES WITH DEPENDENT CHILDREN**

\* \* \* \* \*

**STATE PLANS FOR AID AND SERVICES TO NEEDY FAMILIES WITH  
CHILDREN**

SEC. 402. (a) A State plan for aid and services to needy families with children must—

(1) \* \* \*

\* \* \* \* \*

(9) provide safeguards which restrict the use or disclosure of information concerning applicants or recipients to purposes directly connected with (A) the administration of the plan of the State approved under this part [(including activities under part F)], the plan or program of the State under part B, D, or E of this title or under title I, X, XIV, XVI, XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (16) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; but such safeguards shall not prevent the State agency or the local agency responsible for the administration of the State plan in the locality (whether or not the State has enacted legislation allowing public access to Federal welfare records) from furnishing a State or local law enforcement officer, upon his request, with the current address of any recipient if the officer furnishes the agency with such recipient's name and social security account number and satisfactorily demonstrates that such recipient is a fugitive

felon, that the location or apprehension of such felon is within the officer's official duties, and that the request is made in the proper exercise of those duties;

\* \* \* \* \*

[(19) provide—

[(A) that the State has in effect and operation a job opportunities and basic skills training program which meets the requirements of part F;

[(B) that—

[(i) the State will (except as otherwise provided in this paragraph or part F), to the extent that the program is available in the political subdivision involved and State resources otherwise permit—

[(I) require all recipients of aid to families with dependent children in such subdivision with respect to whom the State guarantees child care in accordance with section 402(g) to participate in the program; and

[(II) allow applicants for and recipients of aid to families with dependent children (and individuals who would be recipients of such aid if the State had not exercised the option under section 407(b)(2)(B)(i)) who are not required under subclause (I) to participate in the program to do so on a voluntary basis;

[(ii) in determining the priority of participation by individuals from among those groups described in clauses (i), (ii), (iii), and (iv) of section 403(l)(2)(B), the State will give first consideration to applicants for or recipients of aid to families with dependent children within any such group who volunteer to participate in the program;

[(iii) if an exempt participant drops out of the program without good cause after having commenced participation in the program, he or she shall thereafter not be given priority so long as other individuals are actively seeking to participate; and

[(iv) the State need not require or allow participation of an individual in the program if as a result of such participation the amount payable to the State for quarters in a fiscal year with respect to the program would be reduced pursuant to section 403(l)(2);

[(C) that an individual may not be required to participate in the program if such individual—

[(i) is ill, incapacitated, or of advanced age;

[(ii) is needed in the home because of the illness or incapacity of another member of the household;

[(iii) subject to subparagraph (D)—

[(I) is the parent or other relative of a child under 3 years of age (or, if so provided in the State plan, under any age that is less than 3 years but not less than one year) who is personally providing care for the child, or



[(II) is the parent or other relative personally providing care for a child under 6 years of age, unless the State assures that child care in accordance with section 402(g) will be guaranteed and that participation in the program by the parent or relative will not be required for more than 20 hours a week;

[(iv) works 30 or more hours a week;

[(v) is a child who is under age 16 or attends, full-time, an elementary, secondary, or vocational (or technical) school;

[(vi) is pregnant if it has been medically verified that the child is expected to be born in the month in which such participation would otherwise be required or within the 6-month period immediately following such month; or

[(vii) resides in an area of the State where the program is not available;

[(D) that, in the case of a family eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner, subparagraph (C)(iii) shall apply only to one parent, except that, in the case of such a family, the State may at its option make such subparagraph inapplicable to both of the parents (and require their participation in the program) if child care in accordance with section 402(g) is guaranteed with respect to the family;

[(E) that—

[(i) to the extent that the program is available in the political subdivision involved and State resources otherwise permit, in the case of a custodial parent who has not attained 20 years of age, has not successfully completed a high-school education (or its equivalent), and is required to participate in the program (including an individual who would otherwise be exempt from participation in the program solely by reason of subparagraph (C)(iii)), the State agency (subject to clause (ii)) will require such parent to participate in an educational activity; and

[(ii) the State agency may—

[(I) require a parent described in clause (i) (notwithstanding the part-time requirement in subparagraph (C)(iii)(II)) to participate in educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis,

[(II) establish criteria in accordance with regulations of the Secretary under which custodial parents described in clause (i) who have not attained 18 years of age may be exempted from the school attendance requirement under such clause, or

[(III) require a parent described in clause (i) who is age 18 or 19 to participate in training or work activities (in lieu of the educational activities under such clause) if such parent fails to make good progress in successfully completing such educational activities or if it is determined (prior to any assignment of the individual to such educational activities) pursuant to an educational assessment that participation in such educational activities is inappropriate for such parent;

[(F) that—

[(i) if the parent or other caretaker relative or any dependent child in the family is attending (in good standing) an institution of higher education (as defined in section 481(a) of the Higher Education Act of 1965), or a school or course of vocational or technical training (not less than half time) consistent with the individual's employment goals, and is making satisfactory progress in such institution, school, or course, at the time he or she would otherwise commence participation in the program under this section, such attendance may constitute satisfactory participation in the program (by that caretaker or child) so long as it continues and is consistent with such goals;

[(ii) any other activities in which an individual described in clause (i) participates may not be permitted to interfere with the school or training described in that clause;

[(iii) the costs of such school or training shall not constitute federally reimbursable expenses for purposes of section 403; and

[(iv) the costs of day care, transportation, and other services which are necessary (as determined by the State agency) for such attendance in accordance with section 402(g) are eligible for Federal reimbursement;

[(G) that—

[(i) if an individual who is required by the provisions of this paragraph to participate in the program or who is so required by reason of the State's having exercised the option under subparagraph (D) fails without good cause to participate in the program or refuses without good cause to accept employment in which such individual is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined to be a bona fide offer of employment—

[(I) the needs of such individual (whether or not section 407 applies) shall not be taken into account in making the determination with respect to his or her family under paragraph (7) of this subsection, and if such individual is a parent or other caretaker relative, payments of aid for any de-

pendent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (D) thereof) will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made; and

[(II) if such individual is a member of a family which is eligible for aid to families with dependent children by reason of section 407, and his or her spouse is not participating in the program, the needs of such spouse shall also not be taken into account in making such determination;

[(ii) any sanction described in clause (i) shall continue—

[(I) in the case of the individual's first failure to comply, until the failure to comply ceases;

[(II) in the case of the individual's second failure to comply, until the failure to comply ceases or 3 months (whichever is longer); and

[(III) in the case of any subsequent failure to comply, until the failure to comply ceases or 6 months (whichever is longer);

[(iii) the State will promptly remind any individual whose failure to comply has continued for 3 months, in writing, of the individual's option to end the sanction by terminating such failure; and

[(iv) no sanction shall be imposed under this subparagraph—

[(I) on the basis of the refusal of an individual described in subparagraph (C)(iii)(II) to accept employment, if the employment would require such individual to work more than 20 hours a week, or

[(II) on the basis of the refusal of an individual to participate in the program or accept employment, if child care (or day care for any incapacitated individual living in the same home as a dependent child) is necessary for an individual to participate in the program or accept employment, such care is not available, and the State agency fails to provide such care; and

[(H) the State agency may require a participant in the program to accept a job only if such agency assures that the family of such participant will experience no net loss of cash income resulting from acceptance of the job; and any costs incurred by the State agency as a result of this subparagraph shall be treated as expenditures with respect to which section 403(a)(1) or 403(a)(2) applies;]

\* \* \* \* \*

(44) provide that the State agency shall—

(A) be responsible for assuring that the benefits and services under the programs under this part[, part D, and

part F] *and part D* are furnished in an integrated manner, and

\* \* \* \* \*

[(g)(1)(A)(i) Each State agency must guarantee child care in accordance with subparagraph (B)—

[(I) for each family with a dependent child requiring such care, to the extent that such care is determined by the State agency to be necessary for an individual in the family to accept employment or remain employed; and

[(II) for each individual participating in an education and training activity (including participation in a program that meets the requirements of subsection (a)(19) and part F) if the State agency approves the activity and determines that the individual is satisfactorily participating in the activity.

[(ii) Each State agency must guarantee child care, subject to the limitations described in this section, to the extent that such care is determined by the State agency to be necessary for an individual's employment in any case where a family has ceased to receive aid to families with dependent children as a result of increased hours of, or increased income from, such employment or by reason of subsection (a)(8)(B)(ii)(II).

[(iii) A family shall only be eligible for child care provided under clause (ii) for a period of 12 months after the last month for which the family received aid to families with dependent children under this part.

[(iv) A family shall not be eligible for child care provided under clause (ii) unless the family received aid to families with dependent children in at least 3 of the 6 months immediately preceding the month in which the family became ineligible for such aid.

[(v) A family shall not be eligible for child care provided under clause (ii) unless the family includes a child who is (or, if needy, would be) a dependent child.

[(vi) A family shall not be eligible for child care provided under clause (ii) for any month beginning after the caretaker relative who is a member of the family has—

[(I) without good cause, terminated his or her employment; or

[(II) refused to cooperate with the State in establishing and enforcing his or her child support obligations, without good cause as determined by the State agency in accordance with standards prescribed by the Secretary which shall take into consideration the best interests of the child for whom child care is to be provided.

[(vii) A family shall contribute to child care provided under clause (ii) in accordance with a sliding scale formula which shall be established by the State agency based on the family's ability to pay.

[(B) The State agency may guarantee child care by—

[(i) providing such care directly;

[(ii) arranging the care through providers by use of purchase of service contracts, or vouchers;

[(iii) providing cash or vouchers in advance to the caretaker relative in the family;

[(iv) reimbursing the caretaker relative in the family; or(v) adopting such other arrangements as the agency deems appropriate.

When the State agency arranges for child care, the agency shall take into account the individual needs of the child.

[(C)(i) Subject to clause (ii), the State agency shall make payment for the cost of child care provided with respect to a family in an amount that is the lesser of—

[(I) the actual cost of such care; and

[(II) the dollar amount of the child care disregard for which the family is otherwise eligible under subsection (a)(8)(A)(iii), or (if higher) an amount established by the State.

[(ii) The State agency may not reimburse the cost of child care provided with respect to a family in an amount that is greater than the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary).

[(D) The State may not make any change in its method of reimbursing child care costs which has the effect of disadvantaging families receiving aid under the State plan on the date of the enactment of this section by reducing their income or otherwise.

[(E) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this paragraph—

[(i) shall not be treated as income for purposes of any other Federal or federally-assisted program that bases eligibility for or the amount of benefits upon need, and

[(ii) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

[(2) In the case of any individual participating in the program under part F, each State agency (in addition to guaranteeing child care under paragraph (1)) shall provide payment or reimbursement for such transportation and other work-related expenses (including other work-related supportive services), as the State determines are necessary to enable such individual to participate in such program.

[(3)(A)(i) In the case of amounts expended for child care pursuant to paragraph (1)(A) by any State to which section 1108 does not apply, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1905(b)).

[(ii) In the case of amounts expended for child care pursuant to paragraph (1)(A)(ii) (relating to the provision of child care for certain families which cease to receive aid under this part) by any State to which section 1108 applies, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1118).

[(B) In the case of any amounts expended by the State agency for child care under this subsection, only such amounts as are within such limits as the State may prescribe (subject to the limitations of paragraph (1)(C)) shall be treated as amounts for which payment may be made to a State under this part and they may be so treated only to the extent that—

[(i) such amounts do not exceed the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary);

[(ii) the child care involved meets applicable standards of State and local law; and(iii) in the case of child care, the entity providing such care allows parental access.

[(4) The State must establish procedures to ensure that center-based child care will be subject to State and local requirements designed to ensure basic health and safety, including fire safety, protections. The State must also endeavor to develop guidelines for family day care. The State must provide the Secretary with a description of such State and local requirements and guidelines.

[(5) By October 1, 1992, the Secretary shall report to the Congress on the nature and content of State and local standards for health and safety.

[(6)(A) The Secretary shall make grants to States to improve their child care licensing and registration requirements and procedures, to enforce standards with respect to child care provided to children under this part, and to provide for the training of child care providers.

[(B) Subject to subparagraph (C), the Secretary shall make grants to each State under subparagraph (A) in proportion to the number of children in the State receiving aid under the State plan approved under subsection (a).

[(C) The Secretary may not make grants to a State under subparagraph (A) unless the State provides matching funds in an amount that is not less than 10 percent of the amount of the grant.

[(D) For grants under this paragraph, there is authorized to be appropriated to the Secretary \$13,000,000 for each of the fiscal years 1990 and 1991, and \$50,000,000 for each of fiscal years 1992, 1993, and 1994.

[(E) Each State to which the Secretary makes a grant under this paragraph shall expend not less than 50 percent of the amount of the grant to provide for the training of child care providers.

[(7) Activities under this subsection and subsection (i) shall be coordinated in each State with existing early childhood education programs in that State, including Head Start programs, preschool programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981, and school and nonprofit child care programs (including community-based organizations receiving funds designated for preschool programs for handicapped children).]

\* \* \* \* \*

[(i)(1) Each State agency may, to the extent that it determines that resources are available, provide child care in accordance with paragraph (2) to any low income family that the State determines—

[(A) is not receiving aid under the State plan approved under this part;

[(B) needs such care in order to work; and

[(C) would be at risk of becoming eligible for aid under the State plan approved under this part if such care were not provided.

[(2) The State agency may provide child care pursuant to paragraph (1) by—

- [(A) providing such care directly;
- [(B) arranging such care through providers by use of purchase of service contracts or vouchers;
- [(C) providing cash or vouchers in advance to the family;
- [(D) reimbursing the family; or(E) adopting such other arrangements as the agency deems appropriate.

[(3)(A) A family provided with child care under paragraph (1) shall contribute to such care in accordance with a sliding scale formula established by the State agency based on the family's ability to pay.

[(B) The State agency shall make payment for the cost of child care provided under paragraph (1) with respect to a family in an amount that is the lesser of—

- [(i) the actual cost of such care; and
- [(ii) the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary).

[(4) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this subsection—

[(A) shall not be treated as income or as a deductible expense for purposes of any other Federal or federally assisted program that bases eligibility for or amount of benefits upon need; and

[(B) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

[(5) Amounts expended by the State agency for child care under paragraph (1) shall be treated as amounts for which payment may be made to a State under section 403(n) only to the extent that—

[(A) such amounts are paid in accordance with paragraph (3)(B);

[(B) the care involved meets applicable standards of State and local law;

[(C) the provider of the care—

[(i) in the case of a provider who is not an individual that provides such care solely to members of the family of the individual, is licensed, regulated, or registered by the State or locality in which the care is provided; and

[(ii) allows parental access; and(D) such amounts are not used to supplant any other Federal or State funds used for child care services.

[(6)(A)(i) Each State shall prepare reports annually, beginning with fiscal year 1993, on the activities of the State carried out with funds made available under section 403(n).

[(ii) The State shall make available for public inspection within the State copies of each report required by this paragraph, shall transmit a copy of each such report to the Secretary, and shall provide a copy of each such report, on request, to any interested public agency.

[(iii) The Secretary shall annually compile, and submit to the Congress, the State reports transmitted to the Secretary pursuant to clause (ii).

[(B) Each report prepared and transmitted by a State under subparagraph (A) shall set forth with respect to child care services provided under this subsection—

[(i) showing separately for center-based child care services, group home child care services, family child care services, and relative care services, the number of children who received such services and the average cost of such services;

[(ii) the criteria applied in determining eligibility or priority for receiving services, and sliding fee schedules;

[(iii) the child care licensing and regulatory (including registration) requirements in effect in the State with respect to each type of service specified in clause (i); and

[(iv) the enforcement policies and practices in effect in the State which apply to licensed and regulated child care providers (including providers required to register).

[(C) Within 12 months after the date of the enactment of this subsection, the Secretary shall establish uniform reporting requirements for use by the States in preparing the information required by this paragraph, and make such other provision as may be necessary or appropriate to ensure that compliance with this subsection will not be unduly burdensome on the States.

[(D) Not later than July 1, 1992, the Secretary shall issue a report on the implementation of this subsection, based on such information as has been made available to the Secretary by the States.]

#### PAYMENT TO STATES

SEC. 403. (a) \* \* \*

\* \* \* \* \*

[(k)(1) Each State with a plan approved under part F shall be entitled to payments under subsection (1) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in such subsection) of its expenditures to carry out the program under part F (subject to limitations prescribed by or pursuant to such part or this section on expenditures that may be included for purposes of determining payment under subsection (1)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under paragraph (2) with respect to the State.

[(2) The limitation determined under this paragraph with respect to a State for any fiscal year is—

[(A) the amount allotted to the State for fiscal year 1987 under part C of this title as then in effect, plus

[(B) the amount that bears the same ratio to the amount specified in paragraph (3) for such fiscal year as the average monthly number of adult recipients (as defined in paragraph (4)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

[(3) The amount specified in this paragraph is—



[(A) \$600,000,000 in the case of the fiscal year 1989,  
 [(B) \$800,000,000 in the case of the fiscal year 1990,  
 [(C) \$1,000,000,000 in the case of each of the fiscal years  
 1991, 1992, and 1993,

[(D) \$1,100,000,000 in the case of the fiscal year 1994,

[(E) \$1,300,000,000 in the case of the fiscal year 1995, reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be \$1,300,000,000 for the purpose of determining the amount of the payment under subsection (l) to which each State is entitled), and

[(F) \$1,000,000,000 in the case of the fiscal year 1996 and each succeeding fiscal year, reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be \$1,000,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),

reduced by the aggregate amount allotted to all the States for fiscal year 1987 pursuant to part C of this title as then in effect.

[(4) For purposes of this subsection, the term "adult recipient" in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with payments of aid to families with dependent children.

[(5) None of the funds available to a State for purposes of the programs or activities conducted under part F shall be used for construction.

[(1)(A) In lieu of any payment under subsection (a), the Secretary shall pay to each State with a plan approved under section 482(a) (subject to the limitation determined under section 482(i)(2)) with respect to expenditures by the State to carry out a program under part F (including expenditures for child care under section 402(g)(1)(A)(i), but only in the case of a State with respect to which section 1108 applies), an amount equal to—

[(i) with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in the fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then in effect, 90 percent; and

[(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)—

[(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such a program for such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services under section 402(g)(2), and

[(II) the greater of 60 percent or the Federal medical assistance percentage (as defined in section 1118 in the case of any State to which section 1108 applies, or as de-

financed in section 1905(b) in the case of any other State), in the case of expenditures made by a State in operating such a program for such fiscal year (other than for costs described in subclause (I)).

[(B) With respect to the amount for which payment is made to a State under subparagraph (A)(i), the State's expenditures for the costs of operating a program established under part F may be in cash or in kind, fairly evaluated.

[(2)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in operating its program established under part F (in lieu of any different percentage specified in paragraph (1)(A)) if less than 55 percent of such expenditures are made with respect to individuals who are described in subparagraph (B).

[(B) An individual is described in this paragraph if the individual—

[(i)(I) is receiving aid to families with dependent children, and

[(II) has received such aid for any 36 of the preceding 60 months;

[(ii)(I) makes application for aid to families with dependent children, and

[(II) has received such aid for any 36 of the 60 months immediately preceding the most recent month for which application has been made;

[(iii) is a custodial parent under the age of 24 who (I) has not completed a high school education and, at the time of application for aid to families with dependent children, is not enrolled in high school (or a high school equivalency course of instruction), or (II) had little or no work experience in the preceding year; or

[(iv) is a member of a family in which the youngest child is within 2 years of being ineligible for aid to families with dependent children because of age.

[(C) This paragraph may be waived by the Secretary with respect to any State which demonstrates to the satisfaction of the Secretary that the characteristics of the caseload in that State make it infeasible to meet the requirements of this paragraph, and that the State is targeting other long-term or potential long-term recipients.

[(D) The Secretary shall biennially submit to the Congress any recommendations for modifications or additions to the groups of individuals described in subparagraph (B) that the Secretary determines would further the goal of assisting long-term or potential long-term recipients of aid to families with dependent children to achieve self-sufficiency, which recommendations shall take into account the particular characteristics of the populations of individual States.

[(3)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in a fiscal year in operating its program established under part F (in lieu of any different percentage specified in paragraph (1)(A)) if the State's participation rate (determined under

subparagraph (B)) for the preceding fiscal year does not exceed or equal—

- [(i) 7 percent if the preceding fiscal year is 1990;
- [(ii) 7 percent if such year is 1991;
- [(iii) 11 percent if such year is 1992;
- [(iv) 11 percent if such year is 1993;
- [(v) 15 percent if such year is 1994; and
- [(vi) 20 percent if such year is 1995.

[(B)(i) The State's participation rate for a fiscal year shall be the average of its participation rates for computation periods (as defined in clause (ii)) in such fiscal year.

[(ii) The computation periods shall be—

- [(I) the fiscal year, in the case of fiscal year 1990,
- [(II) the first six months, and the seventh through twelfth months, in the case of fiscal year 1991,
- [(III) the first three months, the fourth through sixth months, the seventh through ninth months, and the tenth through twelfth months, in the case of fiscal years 1992 and 1993, and
- [(IV) each month, in the case of fiscal years 1994 and 1995.

[(iii) The State's participation rate for a computation period shall be the number, expressed as a percentage, equal to—

[(I) the average monthly number of individuals required or allowed by the State to participate in the program under part F who have participated in such program in months in the computation period, plus the number of individuals required or allowed by the State to participate in such program who have so participated in that month in such period for which the number of such participants is the greatest, divided by

[(II) twice the average monthly number of individuals required to participate in such period (other than individuals described in subparagraph (C)(iii)(I) or (D) of section 402(a)(19) with respect to whom the State has exercised its option to require their participation).

For purposes of this subparagraph, an individual shall not be considered to have satisfactorily participated in the program under part F solely by reason of such individual being registered to participate in such program.

[(C) Notwithstanding any other provision of this paragraph, no State shall be subject to payment under this paragraph (in lieu of paragraph (1)(A)) for failing to meet any participation rate required under this paragraph with respect to any fiscal year before 1991.

[(D) For purposes of this paragraph, an individual shall be determined to have participated in the program under part F, if such individual has participated in accordance with such requirements, consistent with regulations of the Secretary, as the State shall establish.

[(E) If the Secretary determines that the State has failed to achieve the participation rate for any fiscal year specified in the numbered clauses of subparagraph (A), he may waive, in whole or in part, the reduction in the payment rate otherwise required by such subparagraph if he finds that—

[(i) the State is in conformity with section 402(a)(19) and part F;

[(ii) the State has made a good faith effort to achieve the applicable participation rate for such fiscal year; and

[(iii) the State has submitted a proposal which is likely to achieve the applicable participation rate for the current fiscal year and the subsequent fiscal years (if any) specified therein.

[(4)(A)(i) Subject to subparagraph (B), in the case of any family eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner, the State agency shall require that at least one parent in any such family participate, for a total of at least 16 hours a week during any period in which either parent is required to participate in the program, in a work supplementation program, a community work experience or other work experience program, on-the-job training, or a State designed work program approved by the Secretary, as such programs are described in section 482(d)(1). In the case of a parent under age 25 who has not completed high school or an equivalent course of education, the State may require such parent to participate in educational activities directed at the attainment of a high school diploma (or equivalent) or another basic education program in lieu of one or more of the programs specified in the preceding sentence.

[(ii) For purposes of clause (i), an individual participating in a community work experience program under section 482 shall be considered to have met the requirement of such clause if he participates for the number of hours in any month equal to the monthly payment of aid to families with dependent children to the family of which he is a member, divided by the greater of the Federal or the applicable State minimum wage (and the portion of such monthly payment for which the State is reimbursed by a child support collection shall not be taken into account in determining the number of hours that such individual may be required to work).

[(B) The requirement under subparagraph (A) shall not be considered to have been met by any State if the requirement is not met with respect to the following percentages of all families in the State eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner:

[(i) 40 percent, in the case of the average of each month in fiscal year 1994,

[(ii) 50 percent, in the case of the average of each month in fiscal year 1995,

[(iii) 60 percent, in the case of the average of each month in fiscal year 1996, and

[(iv) 75 percent in the case of the average of each month in each of the fiscal years 1997 and 1998.

[(C) The percentage of participants for any month in a fiscal year for purposes of the preceding sentence shall equal the average of—

[(i) the number of individuals described in subparagraph (A)(i) who have met the requirement prescribed therein, divided by

[(ii) the total number of principal earners described in such subparagraph (but excluding those in families who have

been recipients of aid for 2 months or less if, during the period that the family received aid, at least one parent engaged in intensive job search).

[(D) If the Secretary determines that the State has failed to meet the requirement under subparagraph (A) (determined with respect to the percentages prescribed in subparagraph (B)), he may waive, in whole or in part, any penalty if he finds that—

[(i) the State is operating a program in conformity with section 402(a)(19) and part F,

[(ii) the State has made a good faith effort to meet the requirement of subparagraph (A) but has been unable to do so because of economic conditions in the State (including significant numbers of recipients living in remote locations or isolated rural areas where the availability of work sites is severely limited), or because of rapid and substantial increases in the caseload that cannot reasonably be planned for, and

[(iii) the State has submitted a proposal which is likely to achieve the required percentage of participants for the subsequent fiscal years.]

\* \* \* \* \*

[(n)(1) In addition to any payment under subsection (a) or (l), each State shall be entitled to payment from the Secretary of an amount equal to the lesser of—

[(A) the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State in providing child care services pursuant to section 402(i), and in administering the provision of such child care services, for any fiscal year; and

[(B) the limitation determined under paragraph (2) with respect to the State for the fiscal year.

[(2)(A) The limitation determined under this paragraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (B) for such fiscal year as the number of children residing in the State in the second preceding fiscal year bears to the number of children residing in the United States in the second preceding fiscal year.

[(B) The amount specified in this subparagraph is—

[(i) \$300,000,000 for fiscal year 1991;

[(ii) \$300,000,000 for fiscal year 1992;

[(iii) \$300,000,000 for fiscal year 1993;

[(iv) \$300,000,000 for fiscal year 1994; and

[(v) \$300,000,000 for fiscal year 1995, and for each fiscal year thereafter.

[(C) If the limitation determined under subparagraph (A) with respect to a State for a fiscal year exceeds the amount paid to the State under this subsection for the fiscal year, the limitation determined under this paragraph with respect to the State for the immediately succeeding fiscal year shall be increased by the amount of such excess.

[(3) Amounts appropriated for a fiscal year to carry out this part shall be made available for payments under this subsection for such fiscal year.]

\* \* \* \* \*

## DEPENDENT CHILDREN OF UNEMPLOYED PARENTS

SEC. 407. (a) \* \* \*

(b)(1) In providing for the provision of aid to families with dependent children under the State's plan approved under section 402, in the case of families that include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(41), the State's plan—

(A) \* \* \*

(B) shall provide—

【(i) for such assurances as will satisfy the Secretary that unemployed parents of dependent children as defined in subsection (a) will participate or apply for participation in a program under part F (unless the program is not available in the area where the parent is living) within 30 days after receipt of aid with respect to such children;】

【(ii)】 *(i)* for entering into cooperative arrangements with the State agency responsible for administering or supervising the administration of vocational education in the State, designed to assure maximum utilization of available public vocational education services and facilities in the State in order to encourage the retraining of individuals capable of being retrained;

【(iii)】 *(ii)* for the denial of aid to families with dependent children to any child or relative specified in subsection (a) with respect to any week for which such child's parent described in subparagraph (A)(i) qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation; *and*

【(iv)】 *(iii)* for the reduction of the aid to families with dependent children otherwise payable to any child or relative specified in subsection (a) by the amount of any unemployment compensation that such child's parent described in subparagraph (A)(i) receives under an unemployment compensation law of a State or of the United States【; and】.

【(v) that, if and for so long as the child's parent described in subparagraph (A)(i), unless meeting a condition of section 402(a)(19)(C), is, without good cause, not participating (or available for participation) in a program under part F, or if exempt under such section by reason of clause (vii) thereof or because there has not been established or provided under part F a program in which such parent can effectively participate, is not registered with the public employment offices in the State, the needs of such parent shall not be taken into account in determining the need of such parent's family under section 402(a)(7), and the needs of such parent's spouse shall not be so taken into account unless such spouse is participating in such a program, or if not participating solely by reason of section 402(a)(19)(C)(vii) or because there has not been established or provided under part F a program in which such spouse can effectively participate, is registered with the public

employment offices of the State; and if neither parents' needs are so taken into account, the payment provisions of section 402(a)(19)(G)(i)(I) shall apply.】

(2)(A) \* \* \*

(B)(i) \* \* \*

(ii)(I) A State may not limit the number of months under clause (i) for which a family may receive aid to families with dependent children unless it provides in its plan assurances to the Secretary that it has a program (that meets such requirements as the Secretary may in regulation prescribe) for providing education, training, and employment services 【(including any activity authorized under section 402(a)(19) or under part F)】 in order to assist parents of children described in subsection (a) in preparing for and obtaining employment.

\* \* \* \* \*

【(C) With respect to the participation in the program under section 402(a)(19) and part F of a family eligible for aid to families with dependent children by reason of this section, a State may, at its option—

【(i) except as otherwise provided in such section and such part, require that any parent participating in such program engage in program activities for up to 40 hours per week; and

【(ii) provide for the payment of aid to families with dependent children at regular intervals of no greater than one month but after the performance of assigned program activities.】

(c) Notwithstanding any other provisions of this section, expenditures pursuant to this section shall be excluded from aid to families with dependent children 【(A)】 where such expenditures are made under the plan with respect to any dependent child as defined in subsection (a), (i) for any part of the 30-day period referred to in subsection (b)(1)(A)(i), or (ii) for any period prior to the time when the parent satisfies subsection (b)(1)(A)(ii)【, and (B) if, and for as long as, no action is taken (after the 30-day period referred to in subsection (b)(1)(B)(i), under the program therein specified, to undertake appropriate steps directed towards the participation of such parent in a program under part F】.

(d) For purposes of this section—

(1) the term “quarter of work” with respect to any individual means (A) a calendar quarter in which such individual received earned income of not less than \$50 (or which is a “quarter of coverage” as defined in section 213(a)(2))【, or in which such individual participated in a program under part F】，(B) at the option of the State, a calendar quarter in which such individual attended, full-time, an elementary school, a secondary school, or a vocational or technical training course (approved by the Secretary) that is designed to prepare the individual for gainful employment, or in which such individual participated in an education or training program established under the Job Training Partnership Act, and (C) a calendar quarter ending before October 1990 in which such individual participated in a community work experience program under section 409 (as in effect for a State immediately before the effective date for that State of the amendments made by title II of the Family Sup-

port Act of 1988 or the work incentive program established under part C (as in effect for a State immediately before such effective date);

\* \* \* \* \*

(e) The Secretary and the Secretary of Labor shall jointly enter into an agreement with each State which is able and willing to do so for the purpose of (1) simplifying the procedures to be followed by unemployed parents and other unemployed persons in such State [in participating in a program under part F and] in registering with public employment offices (under this section and otherwise) or in connection with applications for unemployment compensation, by reducing the number of locations or agencies where such persons must go in order to [participate in or] register for such programs and in connection with such applications, and (2) providing where possible for a single registration satisfying this section and the requirements of [both part F and] the applicable unemployment compensation laws.

\* \* \* \* \*

#### ASSISTANT SECRETARY FOR FAMILY SUPPORT

SEC. 417. The programs under this part[, part D, and part F] and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.

#### SEC. 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 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 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.*—For grants under this section, there are appropriated—

- (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.

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#### PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

\* \* \* \* \*

##### STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

SEC. 471. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

(1) \* \* \*

\* \* \* \* \*

(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this title [(including activities under part F)] or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted pro-

gram which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

\* \* \* \* \*

## [PART F—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

### [PURPOSE AND DEFINITIONS

[SEC. 481. (a) PURPOSE.—It is the purpose of this part to assure that needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependence.

[(b) MEANING OF TERMS.—Except to the extent otherwise specifically indicated, terms used in this part shall have the meanings given them in or under part A.

### [ESTABLISHMENT AND OPERATION OF STATE PROGRAMS

[SEC. 482. (a) State Plans for Job Opportunities and Basic Skills Training Programs.—(1)(A) As a condition of its participation in the program of aid to families with dependent children under part A, each State shall establish and operate a job opportunities and basic skills training program (in this part referred to as the “program”) under a plan approved by the Secretary as meeting all of the requirements of this part and section 402(a)(19), and shall, in accordance with regulations prescribed by the Secretary, periodically (but not less frequently than every 2 years) review and update its plan and submit the updated plan for approval by the Secretary.

[(B) A State plan for establishing and operating the program must describe how the State intends to implement the program during the period covered by the plan, and must indicate, through cross-references to the appropriate provisions of this part and part A, that the program will be operated in accordance with such provision of law. In addition, such plan must contain (i) an estimate of the number of persons to be served by the program, (ii) a description of the services to be provided within the State and the political subdivisions thereof, the needs to be addressed through the provision of such services, the extent to which such services are expected to be made available by other agencies on a nonreimburs-

able basis, and the extent to which such services are to be provided or funded by the program, and (iii) such additional information as the Secretary may require by regulation to enable the Secretary to determine that the State program will meet all of the requirements of this part and part A.

[(C) The Secretary shall consult with the Secretary of Labor on general plan requirements and on criteria to be used in approving State plans under this section.

[(D)(i) Not later than October 1, 1992, each State shall make the program available in each political subdivision of such State where it is feasible to do so, after taking into account the number of prospective participants, the local economy, and other relevant factors.

[(ii) If a State determines that it is not feasible to make the program available in each such subdivision, the State plan must provide appropriate justification to the Secretary.

[(2) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall be responsible for the administration or supervision of the administration of the State's program.

[(3) Federal funds made available to a State for purposes of the program shall not be used to supplant non-Federal funds for existing services and activities which promote the purpose of this part. State or local funds expended for such purpose shall be maintained at least at the level of such expenditures for the fiscal year 1986.

[(b) ASSESSMENT AND REVIEW OF NEEDS AND SKILLS OF PARTICIPANTS; EMPLOYABILITY PLAN.—(1)(A) The State agency must make an initial assessment of the educational, child care, and other supportive services needs as well as the skills, prior work experience, and employability of each participant in the program under this part, including a review of the family circumstances. The agency may also review the needs of any child of the participant.

[(B) On the basis of such assessment, the State agency, in consultation with the participant, shall develop an employability plan for the participant. The employability plan shall explain the services that will be provided by the State agency and the activities in which the participant will take part under the program, including child care and other supportive services, shall set forth an employment goal for the participant, and shall, to the maximum extent possible and consistent with this section, reflect the respective preferences of such participant. The plan must take into account the participant's supportive services needs, available program resources, and local employment opportunities. The employability plan shall not be considered a contract.

[(2) Following the initial assessment and review and the development of the employability plan with respect to any participant in the program, the State agency may require the participant (or the adult caretaker in the family of which the participant is a member) to negotiate and enter into an agreement with the State agency that specifies such matters as the participant's obligations under the program, the duration of participation in the program, and the activities to be conducted and the services to be provided in the course of such participation. If the State agency exercises the op-

tion under the preceding sentence, the State agency must give the participant such assistance as he or she may require in reviewing and understanding the agreement.

[(3) The State agency may assign a case manager to each participant and the participant's family. The case manager so assigned must be responsible for assisting the family to obtain any services which may be needed to assure effective participation in the program.

[(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—

(1) The State agency must ensure that all applicants for and recipients of aid to families with dependent children are encouraged, assisted, and required to fulfill their responsibilities to support their children by preparing for, accepting, and retaining such employment as they are capable of performing.

[(2) The State agency must inform all applicants for and recipients of aid to families with dependent children of the education, employment, and training opportunities, and the support services (including child care and health coverage transition options), for which they are eligible, the obligations of the State agency, and the rights, responsibilities, and obligations of participants in the program.

[(3) The State agency must—

[(A) provide (directly or through arrangements with others) information on the types and locations of child care services reasonably accessible to participants in the program,

[(B) inform participants that assistance is available to help them select appropriate child care services, and

[(C) on request, provide assistance to participants in obtaining child care services.

[(4) The State agency must inform applicants for and recipients of aid to families with dependent children of the grounds for exemption from participation in the program and the consequences of refusal to participate if not exempt, and provide other appropriate information with respect to such participation.

[(5) Within one month after the State agency gives a recipient of aid to families with dependent children the information described in the preceding provisions of this paragraph, the State agency must notify such recipient of the opportunity to indicate his or her desire to participate in the program, including a clear description of how to enter the program.

[(d) SERVICES AND ACTIVITIES UNDER THE PROGRAM.—(1)(A) In carrying out the program, each State shall make available a broad range of services and activities to aid in carrying out the purpose of this part. Such services and activities—

[(i) shall include—

[(I) educational activities (as appropriate), including high school or equivalent education (combined with training as needed), basic and remedial education to achieve a basic literacy level, and education for individuals with limited English proficiency;

[(II) job skills training;

[(III) job readiness activities to help prepare participants for work; and

[(IV) job development and job placement; and

[(ii) must also include at least 2 of the following:

[(I) group and individual job search as described in subsection (g);

[(II) on-the-job training;

[(III) work supplementation programs as described in subsection (e); and

[(IV) community work experience programs as described in subsection (f) or any other work experience program approved by the Secretary.

[(B) The State may also offer to participants under the program (i) postsecondary education in appropriate cases, and (ii) such other education, training, and employment activities as may be determined by the State and allowed by regulations of the Secretary.

[(2) If the State requires an individual who has attained the age of 20 years and has not earned a high school diploma (or equivalent) to participate in the program, the State agency shall include educational activities consistent with his or her employment goals as a component of the individual's participation in the program, unless the individual demonstrates a basic literacy level, or the employability plan for the individual identifies a long-term employment goal that does not require a high school diploma (or equivalent). Any other services or activities to which such a participant is assigned may not be permitted to interfere with his or her participation in an appropriate educational activity under this subparagraph.

[(3) Notwithstanding any other provision of this section, the Secretary shall permit up to 5 States to provide services under the program, on a voluntary or mandatory basis, to non-custodial parents who are unemployed and unable to meet their child support obligations. Any State providing services to non-custodial parents pursuant to this paragraph shall evaluate the provision of such services, giving particular attention to the extent to which the provision of such services to those parents is contributing to the achievement of the purpose of this part, and shall report the results of such evaluation to the Secretary.

[(e) WORK SUPPLEMENTATION PROGRAM.—(1) Any State may institute a work supplementation program under which such State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as aid to families with dependent children and use such sums instead for the purpose of providing and subsidizing jobs for such participants (as described in paragraph (3)(C)(i) and (ii)), as an alternative to the aid to families with dependent children that would otherwise be so payable to them.

[(2)(A) Notwithstanding section 406 or any other provision of law, Federal funds may be paid to a State under part A, subject to this subsection, with respect to expenditures incurred in operating a work supplementation program under this subsection.

[(B) Nothing in this part, or in any State plan approved under part A, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this subsection and section 484.

[(C) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this subsection.

[(D) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this subsection may provide that the need standards in effect in those areas of the State in which such program is in operation may be different from the need standards in effect in the areas in which such program is not in operation, and such State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

[(E) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of the aid to families with dependent children paid under the plan to different categories of recipients (as determined under subparagraph (D)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under part A) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

[(F) In determining the amounts to be reserved and used for providing and subsidizing jobs under this subsection as described in paragraph (1), the State may use a sampling methodology.

[(G) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this subsection (i) may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program, and (ii) during one or more of the first 9 months of an individual's employment pursuant to a program under this section, may apply to the wages of the individual the provisions of subparagraph (A)(iv) of section 402(a)(8) without regard to the provisions of subparagraph (B)(ii)(II) of such section.

[(3)(A) A work supplementation program operated by a State under this subsection may provide that any individual who is an eligible individual (as determined under subparagraph (B)) shall take a supplemented job (as defined in subparagraph (C)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for aid to families with dependent children except as limited by paragraph (4).

[(B) For purposes of this subsection, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for aid to families with dependent children under an approved State plan if such State did not have a work supplementation program in effect.

[(C) For purposes of this section, a supplemented job is—

[(i) a job provided to an eligible individual by the State or local agency administering the State plan under part A; or

[(ii) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by such State or local agency.

A State may provide or subsidize under the program any job which such State determines to be appropriate.

[(D) At the option of the State, individuals who hold supplemented jobs under a State's work supplementation program shall be exempt from the retrospective budgeting requirements imposed pursuant to section 402(a)(13)(A)(ii) (and the amount of the aid which is payable to the family of any such individual for any month, or which would be so payable but for the individual's participation in the work supplementation program, shall be determined on the basis of the income and other relevant circumstances in that month).

[(4) The amount of the Federal payment to a State under section 403 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in such State under this subsection had received the maximum amount of aid to families with dependent children payable under the State plan to such a family with no income (without regard to adjustments under paragraph (2)) for the lesser of (A) 9 months, or (B) the number of months in which such individual was employed in such program.

[(5)(A) Nothing in this subsection shall be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom it provides a job under the work supplementation program (or with respect to whom it provides all or part of the wages paid to the individual by another entity under such program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under such program be provided employee status by such entity during the first 13 weeks such individual fills that position.

[(B) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

[(6) Any State that chooses to operate a work supplementation program under this subsection shall provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for aid to families with dependent children under the State plan approved under part A if such State did not have a work supplementation program, shall be considered individuals receiving aid to families with dependent children under the State plan approved under part A for purposes of eligibility for medical assistance under the State plan approved under title XIX.

[(7) No individual receiving aid to families with dependent children under a State plan shall be excused by reason of the fact that such State has a work supplementation program from any re-



quirement of this part relating to work requirements, except during periods in which such individual is employed under such work supplementation program.

[(f) COMMUNITY WORK EXPERIENCE PROGRAM.—(1)(A) Any State may establish a community work experience program in accordance with this subsection. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be used in making appropriate work experience assignments.

[(B)(i) A State that elects to establish a community work experience program under this subsection shall operate such program so that each participant (as determined by the State) either works or undergoes training (or both) with the maximum number of hours that any such individual may be required to work in any month being a number equal to the amount of the aid to families with dependent children payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal minimum wage or the applicable State minimum wage (and the portion of a recipient's aid for which the State is reimbursed by a child support collection shall not be taken into account in determining the number of hours that such individual may be required to work).

[(ii) After an individual has been assigned to a position in a community work experience program under this subsection for 9 months, such individual may not be required to continue in that assignment unless the maximum number of hours of participation is no greater than (I) the amount of the aid to families with dependent children payable with respect to the family of which such individual is a member under the State plan approved under this part (excluding any portion of such aid for which the State is reimbursed by a child support payment), divided by (II) the higher of (a) the Federal minimum wage or the applicable State minimum wage, whichever is greater, or (b) the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

[(C) Nothing contained in this subsection shall be construed as authorizing the payment of aid to families with dependent children as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this subsection.

[(D) Nothing in this part or in any State plan approved under this part shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a community work experience program in accordance with this subsection and subsection (d).

[(E) Participants in community work experience programs under this subsection may perform work in the public interest (which otherwise meets the requirements of this subsection) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

[(2) After each 6 months of an individual's participation in a community work experience program under this subsection, and at the conclusion of each assignment of the individual under such program, the State agency must provide a reassessment and revision, as appropriate, of the individual's employability plan.

[(3) The State agency shall provide coordination among a community work experience program operated pursuant to this subsection, any program of job search under subsection (g), and the other employment-related activities under the program established by this section so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in more than one such program are not denied aid to families with dependent children on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in another. The State agency may provide that part-time participation in more than one such program may be required where appropriate.

[(4) In the case of any State that makes expenditures in the form described in paragraph (1) under its State plan approved under section 482(a)(1), expenditures for the operation and administration of the program under this section may not include, for purposes of section 403, the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in paragraph (1) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.

[(g) JOB SEARCH PROGRAM.—(1) The State agency may establish and carry out a program of job search for individuals participating in the program under this part.

[(2) Notwithstanding section 402(a)(19)(B)(i), the State agency may require job search by an individual applying for or receiving aid to families with dependent children (other than an individual described in section 402(a)(19)(C) who is not an individual with respect to whom section 402(a)(19)(D) applies)—

[(A) subject to the next to last sentence of this paragraph, beginning at the time such individual applies for aid to families with dependent children and continuing for a period (prescribed by the State) of not more than 8 weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for such aid or in issuing a payment to or on behalf of any individual who is otherwise eligible for such aid); and

[(B) at such time or times after the close of the period prescribed under subparagraph (A) as the State agency may determine but not to exceed a total of 8 weeks in any period of 12 consecutive months.

In no event may an individual be required to participate in job search for more than 3 weeks before the State agency conducts the assessment and review with respect to such individual under subsection (b)(1)(A). Job search activities in addition to those required under the preceding provisions of this paragraph may be required only in combination with some other education, training, or employment activity which is designed to improve the individual's prospects for employment.

[(3) Job search by an individual under this subsection shall in no event be treated, for any purpose, as an activity under the program if the individual has participated in such job search for 4 months out of the preceding 12 months.

[(h) DISPUTE RESOLUTION PROCEDURES.—Each State shall establish a conciliation procedure for the resolution of disputes involving an individual's participation in the program and (if the dispute involved is not resolved through conciliation) shall provide an opportunity for a hearing with respect to the dispute, which hearing may be provided through a hearing process established for purposes of resolving disputes with respect to the program or through the provision of a hearing pursuant to section 402(a)(4); but in no event shall aid to families with dependent children be suspended, reduced, discontinued, or terminated as a result of a dispute involving an individual's participation in the program until such individual has an opportunity for a hearing that meets the standards set forth by the United States Supreme Court in *Goldberg v. Kelly*, 397 U.S. 254 (1970).

[(i) SPECIAL PROVISIONS RELATING TO INDIAN TRIBES.—(1) Within 6 months after the date of the enactment of the Family Support Act of 1988, an Indian tribe or Alaska Native organization may apply to the Secretary to conduct a job opportunities and basic skills training program to carry out the purpose of this subsection. If the Secretary approves such tribe's or organization's application, the maximum amount that may be paid to the State under section 403(l) in which such tribe or organization is located shall be reduced by the Secretary in accordance with paragraph (2) and an amount equal to the amount of such reduction shall be paid directly to such tribe or organization (without the requirement of any nonfederal share) for the operation of such program. In determining whether to approve an application from an Alaska Native organization, the Secretary shall consider whether approval of the application would promote the efficient and nonduplicative administration of job opportunities and basic skills training programs in the State.

[(2) The amount of the reduction under paragraph (1) with respect to any State in which is located an Indian tribe or Alaska Native organization with an application approved under such paragraph shall be an amount equal to the amount that bears the same ratio to the maximum amount that could be paid under section 403(l) to the State as—

[(A) the number of adult Indians receiving aid to families with dependent children who reside on the reservation or within the designated service area bears to the number of all such adult recipients in the State, or

[(B) the number of adult Alaska Natives receiving aid to families with dependent children who reside within the boundaries of such Alaska Native organization bears to the number of all such adult recipients in the State of Alaska.

[(3) The job opportunities and basic skills training program set forth in the application of an Indian tribe or Alaska Native organization under paragraph (1) need not meet any requirement of the program under this part or under section 402(a)(19) that the Secretary determines is inappropriate with respect to such job opportunities and basic skills training program.

[(4) The job opportunities and basic skills training program of any Indian tribe or Alaska Native organization may be terminated voluntarily by such tribe or Alaska Native organization or may be terminated by the Secretary upon a finding that the tribe or Alaska Native organization is not conducting such program in substantial conformity with the terms of the application approved by the Secretary, and the maximum amount that may be paid under section 403(l) to the State within which the tribe or Alaska Native organization is located (as reduced pursuant to paragraph (1)) shall be increased by any portion of the amount retained by the Secretary with respect to such program (and not payable to such tribe or Alaska Native organization for obligations already incurred). The reduction under paragraph (1) shall in no event apply to a State for any fiscal year beginning after such program is terminated if no other such program remains in operation in the State.

[(5) For purposes of this subsection, an Indian tribe is any tribe, band, nation, or other organized group or community of Indians that—

[(A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

[(B) for which a reservation (as defined in paragraph (6)) exists.

[(6) For purposes of this subsection, a reservation includes Indian reservations, public domain Indian allotments, and former Indian reservations in Oklahoma.

[(7) For purposes of this subsection—

[(A) an Alaska Native organization is any organized group of Alaska Natives eligible to operate a Federal program under Public Law 93–638 or such group's designee;

[(B) the boundaries of an Alaska Native organization shall be those of the geographical region, established pursuant to section 7(a) of the Alaska Native Claims Settlement Act, within which the Alaska Native organization is located (without regard to the ownership of the land within the boundaries);

[(C) the Secretary may approve only one application from an Alaska Native organization for each of the 12 geographical regions established pursuant to section 7(a) of the Alaska Native Claims Settlement Act; and

[(D) any Alaska Native, otherwise eligible or required to participate in a job opportunities and basic skills training program, residing within the boundaries of an Alaska Native organization whose application has been approved by the Secretary, shall be eligible to participate in the job opportunities and basic skills training program administered by such Alaska Native organization.

[(8) Nothing in this subsection shall be construed to grant or defer any status or powers other than those expressly granted in this subsection or to validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

#### [COORDINATION REQUIREMENTS]

[SEC. 483. (a)(1) The Governor of each State shall assure that program activities under this part are coordinated in that State with programs operated under the Job Training Partnership Act and with any other relevant employment, training, and education programs available in that State. Appropriate components of the State's plan developed under section 482(a)(1) which relate to job training and work preparation shall be consistent with the coordination criteria specified in the Governor's coordination and special services plan required under section 121 of the Job Training Partnership Act.

[(2) The State plan so developed shall be submitted to the State job training coordinating council not less than 60 days before its submission to the Secretary, for the purpose of review and comment by the council. Concurrent with submission of the plan to the State job training coordinating council, the proposed State plan shall be published and made reasonably available to the general public through local news facilities and public announcements, in order to provide the opportunity for review and comment.

[(3) The comments and recommendations of the State job training coordinating council under paragraph (2) shall be transmitted to the Governor of the State.

[(b) The Secretary of Health and Human Services shall consult with the Secretaries of Education and Labor on a continuing basis for the purpose of assuring the maximum coordination of education and training services in the development and implementation of the program under this part.

[(c) The State agency responsible for administering or supervising the administration of the State plan approved under part A shall consult with the State education agency and the agency responsible for administering job training programs in the State in order to promote coordination of the planning and delivery of services under the program with programs operated under the Job Training Partnership Act and with education programs available in the State (including any program under the Adult Education Act.

#### [PROVISIONS GENERALLY APPLICABLE TO PROVISION OF SERVICES]

[SEC. 484. (a) In assigning participants in the program under this part to any program activity, the State agency shall assure that—

[(1) each assignment takes into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of the participant;

[(2) no participant will be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight;

[(3) individuals are not discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State, or local law prohibiting discrimination;

[(4) the conditions of participation are reasonable, taking into account in each case the proficiency of the participant and the child care and other supportive services needs of the participant; and

[(5) each assignment is based on available resources, the participant's circumstances, and local employment opportunities.

[(b) Appropriate workers' compensation and tort claims protection must be provided to participants on the same basis as they are provided to other individuals in the State in similar employment (as determined under regulations of the Secretary).

[(c) No work assignment under the program shall result in—

[(1) the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements;

[(2) the employment or assignment of a participant or the filling of a position when (A) any other individual is on layoff from the same or any equivalent position, or (B) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant subsidized under the program; or

[(3) any infringement of the promotional opportunities of any currently employed individual.

Funds available to carry out the program under this part may not be used to assist, promote, or deter union organizing. No participant may be assigned under section 482(e) or (f) to fill any established unfilled position vacancy.

[(d)(1) The State shall establish and maintain (pursuant to regulations jointly issued by the Secretary and the Secretary of Labor) a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual under the program violates any of the prohibitions described in subsection (c). A decision of the State under such procedure may be appealed to the Secretary of Labor for investigation and such action as such Secretary may find necessary.

[(2) The State shall hear complaints with respect to working conditions and workers' compensation, and wage rates in the case of individuals participating in community work experience programs described in section 482(f), under the State's fair hearing process. A decision of the State under such process may be ap-

pealed to the Secretary of Labor under such conditions as the joint regulations issued under subsection (f) may provide.

[(e) The provisions of this section apply to any work-related programs and activities under this part, and under any other work-related programs and activities authorized (in connection with the AFDC program) under section 1115.

[(f) The Secretary of Health and Human Services and the Secretary of Labor shall jointly prescribe and issue regulations for the purpose of implementing and carrying out the provisions of this section, in accordance with the timetable established in section 203(a) of the Family Support Act of 1988

#### [CONTRACT AUTHORITY

[SEC. 485. (a) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall carry out the programs under this part directly or through arrangements or under contracts with administrative entities under section 4(2) of the Job Training Partnership Act, with State and local educational agencies, and with other public agencies or private organizations (including community-based organizations as defined in section 4(5) of such Act).

[(b) Arrangements and contracts entered into under subsection (a) may cover any service or activity (including outreach) to be made available under the program to the extent that the service or activity is not otherwise available on a nonreimbursable basis.

[(c) The State agency and private industry councils (as established under section 102 of the Job Training Partnership Act) shall consult on the development of arrangements and contracts under the program established under a plan approved under section 482(a)(1), and under programs established under such Act.

[(d) In selecting service providers, the State agency shall take into account appropriate factors which may include past performance in providing similar services, demonstrated effectiveness, fiscal accountability, ability to meet performance standards, and such other factors as the State may determine to be appropriate.

[(e) The State agency shall use the services of each private industry council to identify and provide advice on the types of jobs available or likely to become available in the service delivery area (as defined in the Job Training Partnership Act) of the council, and shall ensure that the State program provides training in any area for jobs of a type which are, or are likely to become, available in the area.

#### [INITIAL STATE EVALUATIONS

[SEC. 486. (a) With the objective of—

[(1) providing an in-depth assessment of potential participants in the program under this part in each State, so as to furnish an accurate picture on which to base estimates of future demands for services in conducting such program and to improve the efficiency of targeting under such program,

[(2) assuring that training for recipients of aid under such program will be realistically geared to labor market demands and that the program will produce individuals with marketable

skills, while avoiding duplication and redundancy in the delivery of services, and

[(3) otherwise assuring that States will have the information needed to carry out the purposes of the program, each State may undertake and carry out an evaluation of demographic characteristics of potential participants in the program under this part within the 12-month period beginning on the date of the enactment of the Family Support Act of 1988 Such evaluation shall be carried out in each State by the agency which administers the State's program approved under section 402.

[(b) In carrying out the evaluation under subsection (a) the State shall give particular attention to the current and anticipated demands of the labor market or markets within the State, the types of training which are needed to meet those demands, and any changes in the current service delivery systems which may be needed to satisfy the requirements of the program under this part.

[(c) The evaluation shall be structured so as to produce accurate and usable information on the age, family status, educational and literacy levels, duration of eligibility for aid to families with dependent children, and work experience of the individuals and families who are potential participants in the program under this part, including the actual numbers of such individuals and families in each such category.

[(d) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall provide each State with such technical assistance and data as it may need in order to carry out its evaluation under subsection (a); and each State shall transmit its evaluation to the Secretary by the close of the 12-month period specified in such subsection. The Secretary of Health and Human Services shall take such evaluations into account in developing performance standards.

[(e) As used in this section, the term "potential participants" with respect to any State's program under this part means collectively all individuals in such State who are recipients of aid to families with dependent children under part A and who are members of the target populations identified in section 403(l)(2).

#### [(PERFORMANCE STANDARDS

[SEC. 487. (a) Not later than 4 years after the effective date specified in section 204(a) of the Family Support Act of 1988 , the Secretary shall—

[(1) in consultation with the Secretary of Labor, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, develop criteria for performance standards with respect to the programs established pursuant to this part that are based, in part, on the results of the studies conducted under section 203(c) of such Act, and the initial State evaluations (if any) performed under section 486 of this Act; and

[(2) submit his recommendations with respect to performance standards developed under paragraph (1) to the appropriate committees of jurisdiction of the Congress, which rec-



ommendations shall be made with respect to specific measurements of outcomes and be based on the degree of success which may reasonably be expected of States in helping individuals to increase earnings, achieve self-sufficiency, and reduce welfare dependency, and shall not be measured solely by levels of activity or participation.

Performance standards developed with respect to the program under this part shall be reviewed periodically by the Secretary and modified to the extent necessary.

[(b) The Secretary may collect information from the States to assist in the development of performance standards under subsection (a), and shall include in his regulations (issued pursuant to section 203(a) of the Family Support Act of 1988 with respect to the program under this part) provisions establishing uniform reporting requirements under which States must furnish periodically information and data, including information and data (for each program activity) on the average monthly number of families assisted, the types of such families, the amounts spent per family, the length of their participation, and such other matters as the Secretary may determine.

[(c) The Secretary shall develop and transmit to the Congress, for appropriate legislative action, a proposal for measuring State progress, providing technical assistance to enable States to meet performance standards, and modifying the Federal matching rate to reflect the relative effectiveness of the various States in carrying out the program.]

## **PART F—MANDATORY WORK REQUIREMENTS**

### **SEC. 481. MANDATORY WORK REQUIREMENTS.**

#### **(a) PARTICIPATION RATE REQUIREMENTS.—**

(1) *ALL FAMILIES.*—A State that is operating a program under part A 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 operated under part A:

<i>If the fiscal year is:</i>	<i>The minimum participation rate is:</i>
1996 .....	20
1997 .....	25
1998 .....	30
1999 .....	35
2000 .....	40
2001 .....	45
2002 or thereafter .....	50.

(2) *2-PARENT FAMILIES.*—A State that is operating a program under part A 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 operated under part A:

<i>If the fiscal year is:</i>	<i>The minimum participation rate is:</i>
1996 .....	50
1997 .....	75

1998 .....	75
1999 or thereafter .....	90.

(b) *CALCULATION OF PARTICIPATION RATES.*—

(1) *ALL FAMILIES.*—

(A) *AVERAGE MONTHLY RATE.*—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

(B) *MONTHLY PARTICIPATION RATES.*—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

(i) the number of families receiving assistance under the State program operated under part A 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.*—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—

(A) the number of families receiving assistance during the fiscal year under the State plan approved under part A is less than

(B) the number of families that received aid under the State plan approved under part A 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.

(4) **STATE OPTION FOR PARTICIPATION REQUIREMENT EXEMPTIONS.**—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).

(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):

<b>If the month is in fiscal year:</b>	<b>The minimum average number of hours per week is:</b>
1996 .....	20
1997 .....	20
1998 .....	20
1999 .....	25
2000 .....	30
2001 .....	30
2002 .....	35
2003 or thereafter .....	35.

(2) **2-PARENT FAMILIES.**—For purposes of subsection (b)(2)(B)(i), an adult is engaged in work for a month in a fiscal year if the adult is making progress in 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).

(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 is above the national average, 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 received a high school diploma or a certificate of high school equivalency; and*

(11) *satisfactory attendance at secondary school or high school equivalency program, in the case of a recipient who has not completed secondary school.*

(e) *SUPPLEMENTAL GRANT FOR OPERATION OF WORK PROGRAM.*—

(1) *APPLICATION REQUIREMENTS.*—An eligible State may submit to the Secretary an application for additional funds to meet the requirements of this section with respect to a fiscal year if the Secretary determines that—

(A) *the total expenditures of the State to meet such requirements for the fiscal year exceed the total expenditures of the State during fiscal year 1994 to carry out part F (as in effect on September 30, 1994);*

(B) *the work programs of the State under this section are coordinated with the job training programs established by title II of the Job Training Partnership Act, or (if such title is repealed by the Consolidated and Reformed Education, Employment, and Rehabilitation Systems Act) the Consolidated and Reformed Education, Employment, and Rehabilitation Systems Act; and*

(C) *the State needs additional funds to meet such requirements or certifies that it intends to exceed such requirements.*

(2) *GRANTS.*—The Secretary may make a grant to any eligible State which submits an application in accordance with paragraph (1) for a fiscal year in an amount equal to the Federal medical assistance percentage of the amount (if any) by which the total expenditures of the State to meet or exceed the requirements of this section for the fiscal year exceeds the total expenditures of the State during fiscal year 1994 to carry out part F (as in effect on September 30, 1994).

(3) *REGULATIONS.*—The Secretary shall issue regulations providing for the equitable distribution of funds under this subsection.

(4) *AUTHORIZATION OF APPROPRIATIONS.*—

(A) *IN GENERAL.*—There are authorized to be appropriated for grants under this subsection \$3,000,000,000 for fiscal year 1999.

(B) *AVAILABILITY.*—Amounts appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(f) *PENALTIES.*—

(1) *AGAINST INDIVIDUALS.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), if an adult in a family receiving assistance under the State program operated under part A refuses to engage in work required in accordance with this section, the State shall—

(i) 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

(ii) terminate such assistance,

subject to such good cause and other exceptions as the State may establish.

(B) *EXCEPTION.*—Notwithstanding subparagraph (A), a State may not reduce or terminate assistance under the State program operated under part A 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.

(2) *AGAINST STATES.*—

(A) *IN GENERAL.*—If the Secretary determines that a State that is operating a program under part A for a fiscal year has failed to comply with this section for the fiscal year, the Secretary shall reduce the total amount otherwise payable to the State under section 403 for the immediately

succeeding fiscal year by an amount equal to not more than 5 percent of such otherwise payable amount.

(B) *PENALTY BASED ON SEVERITY OF FAILURE.*—The Secretary shall impose reductions under subparagraph (A) based on the degree of noncompliance.

(g) *NONDISPLACEMENT IN WORK ACTIVITIES.*—

(1) *IN GENERAL.*—Subject to paragraph (2), an adult in a family receiving assistance under a State program operated under part A 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 adult in a work activity described in subsection (d) which is funded, in whole or in part, by funds provided by the Federal Government shall be employed or assigned—

(A) when any other individual is on layoff from the same or any substantially equivalent job; or

(B) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult described in paragraph (1).

(3) *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.

(h) *SENSE OF THE CONGRESS.*—It is the sense of the Congress that in complying with this section, each State that operates a program under part A 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.

(i) *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. 482. INDIVIDUAL RESPONSIBILITY PLANS.**

(a) *ASSESSMENT.*—The State agency responsible for administering the State program funded under part A shall make an initial assessment of the skills, prior work experience, and employability of each recipient of assistance under the program who—

(1) has attained 18 years of age; or

(2) has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

(b) *CONTENTS OF PLANS.*—

(1) *IN GENERAL.*—On the basis of the assessment made under subsection (a) with respect to an individual, the State agency, in consultation with the individual, shall develop an individual responsibility plan for the individual, which—

(A) shall provide that participation by the individual in job search activities shall be a condition of eligibility for assistance under the State program funded under part A,

*except during any period for which the individual is employed full-time in an unsubsidized job in the private sector;*

*(B) sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;*

*(C) sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;*

*(D) to the greatest extent possible shall be designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;*

*(E) shall describe the services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and*

*(F) at the option of the State, may require the individual to undergo appropriate substance abuse treatment.*

*(2) TIMING.—The State agency shall comply with paragraph (1) with respect to an individual—*

*(A) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of aid under the State plan approved under part A (as in effect immediately before such effective date); or*

*(B) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.*

*(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—The State shall inform all applicants for and recipients of assistance under the State program funded under part A of all available services under the program for which they are eligible.*

*(d) PENALTY FOR NONCOMPLIANCE BY INDIVIDUAL.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), the State shall reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State program funded under part A to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.*

*(2) EXCEPTION.—A State may not terminate the provision of assistance to an individual under the State program funded under part A, or reduce the amount of assistance to be provided to an individual under the program, if the State has failed to provide to the individual the services referred to in subsection (b)(1)(E) that are described in the individual responsibility plan for the individual.*

(e) *The exercise of the authority of this section shall be withing the sole discretion of the State.*

\* \* \* \* \*

## **TITLE XI—GENERAL PROVISIONS AND PEER REVIEW**

\* \* \* \* \*

### **PART A—GENERAL PROVISIONS**

\* \* \* \* \*

#### **LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA**

SEC. 1108. (a) The total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under parts A and E of title IV (exclusive of any amounts on account of services and items to which subsection (b) [or, in the case of part A of title IV, section 403(k)] applies)—

(1) \* \* \*

\* \* \* \* \*

(d) The total amount certified by the Secretary under parts A and E of title IV with respect to a fiscal year for payment to American Samoa [(exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies)] shall not exceed \$1,000,000.

\* \* \* \* \*

#### **DEMONSTRATION PROJECTS**

SEC. 1115. (a) \* \* \*

(b)(1) \* \* \*

(2) Any State which establishes and conducts demonstration projects under this subsection may, subject to paragraph (3), with respect to any such project—

(A) waive, subject to paragraph (3), any or all of the requirements of sections 402(a)(1) (relating to statewide operation), 402(a)(3) (relating to administration by a single State agency), 402(a)(8) (relating to disregard of earned income), except that no such waiver of 402(a)(8) shall operate to waive any amount in excess of one-half of the earned income of any individual[, and 402(a)(19) (relating to the work incentive program)]; and

\* \* \* \* \*

## **TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS**

\* \* \* \* \*

### **STATE PLANS FOR MEDICAL ASSISTANCE**

SEC. 1902. (a) A State plan for medical assistance must—

(1) \* \* \*

\* \* \* \* \*



(10) provide—

(A) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5), (17) and (21) of section 1905(a), to—

(i) all individuals—

(I) who are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including individuals eligible under this title by reason of section 402(a)(37), 406(h), or 473(b)), or considered by the State to be receiving such aid as authorized under section 482(e)(6)),

\* \* \* \* \*

## SECTION 51 OF THE INTERNAL REVENUE CODE OF 1986

### SEC. 51. AMOUNT OF CREDIT.

(a) \* \* \*

\* \* \* \* \*

(c) WAGES DEFINED.—For purposes of this subpart—

(1) \* \* \*

(2) ON-THE-JOB TRAINING AND WORK SUPPLEMENTATION PAYMENTS.—

(A) \* \* \*

\* \* \* \* \*

[(B) REDUCTION FOR WORK SUPPLEMENTATION PAYMENTS TO EMPLOYERS.—The amount of wages which would (but for this subparagraph) be qualified wages under this section for an employer with respect to an individual for a taxable year shall be reduced by an amount equal to the amount of the payments made to such employer (however utilized by such employer) with respect to such individual for such taxable year under a program established under section 482(e) of the Social Security Act.]

\* \* \* \* \*

## CHILD ABUSE PREVENTION AND TREATMENT ACT

### [SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the “Child Abuse Prevention and Treatment Act”.

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

#### [TABLE OF CONTENTS

[Sec. 1. Short title and table of contents.

[Sec. 2. Findings.

#### [TITLE I—GENERAL PROGRAM

[Sec. 101. National Center on Child Abuse and Neglect.

[Sec. 102. Advisory Board on Child Abuse and Neglect.

- [Sec. 103. Inter-Agency Task Force on Child Abuse and Neglect.
- [Sec. 104. National clearinghouse for information relating to child abuse.
- [Sec. 105. Research and assistance activities of the National Center on Child Abuse and Neglect.
- [Sec. 106. Grants to public agencies and nonprofit private organizations for demonstration or service programs and projects.
- [Sec. 107. Grants to States for child abuse and neglect prevention and treatment programs.
- [Sec. 107A. Emergency child abuse prevention services grant.
- [Sec. 108. Technical assistance to States for child abuse prevention and treatment programs.
- [Sec. 109. Grants to States for programs relating to the investigation and prosecution of child abuse and neglect cases.
- [Sec. 110. Miscellaneous requirements relating to assistance.
- [Sec. 111. Coordination of child abuse and neglect programs.
- [Sec. 112. Reports.
- [Sec. 113. Definitions.
- [Sec. 114. Authorization of appropriations.

**[TITLE II—GRANTS WITH RESPECT TO ENCOURAGING STATES TO  
MAINTAIN CERTAIN FUNDING MECHANISMS**

- [Sec. 201. Findings and purpose.
- [Sec. 202. Definitions.
- [Sec. 203. Grants authorized.
- [Sec. 204. State eligibility.
- [Sec. 205. Limitations.
- [Sec. 206. Withholding.
- [Sec. 207. Audit.
- [Sec. 208. Report.

**[TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF  
HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS**

- [Sec. 301. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.
- [Sec. 302. Provisions with respect to carrying out purpose of demonstration grants.
- [Sec. 303. Additional required agreements.
- [Sec. 304. Description of intended uses of grant.
- [Sec. 305. Requirement of submission of application.
- [Sec. 306. Authorization of appropriations.

**[SEC. 2. FINDINGS.**

**[Congress finds that—**

**[(1) each year, hundreds of thousands of American children are victims of abuse and neglect with such numbers having increased dramatically over the past decade;**

**[(2) many of these children and their families fail to receive adequate protection or treatment;**

**[(3) the problem of child abuse and neglect requires a comprehensive approach that—**

**[(A) integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;**

**[(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;**

**[(C) emphasizes the need for abuse and neglect prevention, investigation, and treatment at the neighborhood level;**

**[(D) ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and**

**[(E) is sensitive to ethnic and cultural diversity;**

[(4) the failure to coordinate and comprehensively prevent and treat child abuse and neglect threatens the futures of tens of thousands of children and results in a cost to the Nation of billions of dollars in direct expenditures for health, social, and special educational services and ultimately in the loss of work productivity;

[(5) all elements of American society have a shared responsibility in responding to this national child and family emergency;

[(6) substantial reductions in the prevalence and incidence of child abuse and neglect and the alleviation of its consequences are matters of the highest national priority;

[(7) national policy should strengthen families to remedy the causes of child abuse and neglect, provide support for intensive services to prevent the unnecessary removal of children from families, and promote the reunification of families if removal has taken place;

[(8) the child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social re-integration in an environment that fosters the health, self-respect, and dignity of the child;

[(9) because of the limited resources available in low-income communities, Federal aid for the child protection system should be distributed with due regard to the relative financial need of the communities;

[(10) the Federal government should ensure that every community in the United States has the fiscal, human, and technical resources necessary to develop and implement a successful and comprehensive child protection strategy;

[(11) the Federal government should provide leadership and assist communities in their child protection efforts by—

[(A) promoting coordinated planning among all levels of government;

[(B) generating and sharing knowledge relevant to child protection, including the development of models for service delivery;

[(C) strengthening the capacity of States to assist communities;

[(D) allocating sufficient financial resources to assist States in implementing community plans;

[(E) helping communities to carry out their child protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

[(F) providing leadership to end the abuse and neglect of the nation's children and youth.

## **[TITLE I—GENERAL PROGRAM**

### **[SEC. 101. NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.**

[(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish an office to be known as the National Center on Child Abuse and Neglect.

[(b) APPOINTMENT OF DIRECTOR.—

[(1) APPOINTMENT.—The Secretary shall appoint a Director of the Center. Except as otherwise provided in this Act, the Director shall be responsible only for administration and operation of the Center and for carrying out the functions of the Center under this Act. The Director shall have experience in the field of child abuse and neglect.

[(2) COMPENSATION.—The Director shall be compensated at the annual rate provided for a level GS–15 employee under section 5332 of title 5, United States Code.

[(c) OTHER STAFF AND RESOURCES.—The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act. The Secretary shall require that professional staff have experience relating to child abuse and neglect. The Secretary is required to justify, based on the priorities and needs of the Center, the hiring of any professional staff member who does not have experience relating to child abuse and neglect.

### **[SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.**

[(a) APPOINTMENT.—The Secretary shall appoint an advisory board to be known as the Advisory Board on Child Abuse and Neglect.

[(b) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointments required by subsection (a).

[(c) COMPOSITION OF BOARD.—

[(1) NUMBER OF MEMBERS.—The board shall consist of 15 members, each of which shall be a person who is recognized for expertise in an aspect of the area of child abuse, of which—

[(A) 2 shall be members of the task force established under section 103; and

[(B) 13 shall be members of the general public and may not be Federal employees.

[(2) REPRESENTATION.—The Secretary shall appoint members from the general public under paragraph (1)(B) who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

[(A) law (including the judiciary);

[(B) psychology (including child development);

[(C) social services (including child protective services);

[(D) medicine (including pediatrics);

[(E) State and local government;

[(F) organizations providing services to disabled persons;

- [(G) organizations providing services to adolescents;
- [(H) teachers;
- [(I) parent self-help organizations;
- [(J) parents' groups; and
- [(K) voluntary groups.

[(3) TERMS OF OFFICE.—(A) Except as otherwise provided in this subsection, members shall be appointed for terms of office of 4 years.

[(B) Of the members of the board from the general public first appointed under subsection (a)—

- [(i) 4 shall be appointed for terms of office of 2 years;
- [(ii) 4 shall be appointed for terms of office of 3 years;

and

[(iii) 5 shall be appointed for terms of office of 4 years, as determined by the members from the general public during the first meeting of the board.

[(C) No member of the board appointed under subsection (a) shall be eligible to serve in excess of two consecutive terms, but may continue to serve until such member's successor is appointed.

[(4) VACANCIES.—Any member of the board appointed under subsection (a) to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the board appointed under subsection (a), a replacement shall be appointed in the same manner in which the original appointment was made.

[(5) REMOVAL.—No member of the board may be removed during the term of office of such member except for just and sufficient cause.

[(d) ELECTION OF OFFICERS.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members from the general public.

[(e) MEETINGS.—The board shall meet not less than twice a year at the call of the chairperson. The chairperson, to the maximum extent practicable, shall coordinate meetings of the board with receipt of reports from the task force under section 103(f).

[(f) DUTIES.—The board shall—

[(1) annually submit to the Secretary and the appropriate committees of Congress a report containing—

[(A) recommendations on coordinating Federal child abuse and neglect activities to prevent duplication and ensure efficient allocations of resources and program effectiveness; and

[(B) recommendations as to carrying out the purposes of this Act;

[(2) annually submit to the Secretary and the Director a report containing long-term and short-term recommendations on—

- [(A) programs;
- [(B) research;
- [(C) grant and contract needs;
- [(D) areas of unmet needs; and

[(E) areas to which the Secretary should provide grant and contract priorities under sections 105 and 106;

[(3) annually review the budget of the Center and submit to the Director a report concerning such review; and

[(4) not later than 24 months after the date of the enactment of the Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Amendments Act of 1992, submit to the Secretary and the appropriate committees of the Congress a report containing the recommendations of the Board with respect to—

[(A) a national policy designed to reduce and ultimately to prevent child and youth maltreatment-related deaths, detailing appropriate roles and responsibilities for State and local governments and the private sector;

[(B) specific changes needed in Federal laws and programs to achieve an effective Federal role in the implementation of the policy specified in subparagraph (A); and

[(C) specific changes needed to improve national data collection with respect to child and youth maltreatment-related deaths.

[(g) COMPENSATION.—

[(1) IN GENERAL.—Except as provided in paragraph (3), members of the board, other than those regularly employed by the Federal Government, while serving on business of the board, may receive compensation at a rate not in excess of the daily equivalent payable to a GS-18 employee under section 5332 of title 5, United States Code, including traveltime.

[(2) TRAVEL.—Except as provided in paragraph (3), members of the board, while serving on business of the board away from their homes or regular places of business, may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

[(3) RESTRICTION.—The Director may not compensate a member of the board under this section if the member is receiving compensation or travel expenses from another source while serving on business of the board.

[(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$1,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

### **[SEC. 103. INTER-AGENCY TASK FORCE ON CHILD ABUSE AND NEGLECT.**

[(a) ESTABLISHMENT.—The Secretary shall establish a task force to be known as the Inter-Agency Task Force on Child Abuse and Neglect.

[(b) COMPOSITION.—The Secretary shall request representation for the task force from Federal agencies with responsibility for programs and activities related to child abuse and neglect.

[(c) CHAIRPERSON.—The task force shall be chaired by the Director.

[(d) DUTIES.—The task force shall—

[(1) coordinate Federal efforts with respect to child abuse prevention and treatment programs;

[(2) encourage the development by other Federal agencies of activities relating to child abuse prevention and treatment;

[(3) coordinate the use of grants received under this Act with the use of grants received under other programs;

[(4) prepare a comprehensive plan for coordinating the goals, objectives, and activities of all Federal agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than 12 months after the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988; and

[(5) coordinate adoption related activities, develop Federal standards with respect to adoption activities under this Act, and prevent duplication with respect to the allocation of resources to adoption activities.

[(e) MEETINGS.—The task force shall meet not less than three times annually at the call of the chairperson.

[(f) REPORTS.—The task force shall report not less than twice annually to the Center and the Board.

**[SEC. 104. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.**

[(a) ESTABLISHMENT.—Before the end of the 2-year period beginning on the date of the enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988, the Secretary shall through the Center, or by contract of no less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.

[(b) FUNCTIONS.—The Director shall, through the clearinghouse established by subsection (a)—

[(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, identification, and treatment of child abuse and neglect, including the information provided by the National Center for Child Abuse and Neglect under section 105(b);

[(2) maintain and disseminate information relating to—

[(A) the incidence of cases of child abuse and neglect in the general population;

[(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988;

[(C) the incidence of any such cases related to alcohol or drug abuse; and

[(D) State and local recordkeeping with respect to such cases; and

[(3) directly or through contract, identify effective programs carried out by the States pursuant to title II and provide technical assistance to the States in the implementation of such programs.

[(c) COORDINATION WITH AVAILABLE RESOURCES.—In establishing a national clearinghouse as required by subsection (a), the Director shall—

[(1) consult with other Federal agencies that operate similar clearinghouses;

[(2) consult with the head of each agency that is represented on the task force on the development of the components for information collection and management of such clearinghouse;

[(3) develop a Federal data system involving the elements under subsection (b) which, to the extent practicable, coordinates existing State, regional, and local data systems; and

[(4) solicit public comment on the components of such clearinghouse.

**[SEC. 105. RESEARCH AND ASSISTANCE ACTIVITIES OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.**

**[(a) RESEARCH.—**

[(1) TOPICS.—The Secretary shall, through the Center, conduct research on—

[(A) the causes, prevention, identification,, treatment and cultural distinctions of child abuse and neglect;

[(B) appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse; and

[(C) the national incidence of child abuse and neglect, including—

[(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;

[(ii) the relationship of child abuse and neglect to nonpayment of child support, cultural diversity, disabilities, and various other factors; and

[(iii) the incidence of substantiated reported child abuse cases that result in civil child protection proceedings or criminal proceedings, including the number of such cases with respect to which the court makes a finding that abuse or neglect exists and the disposition of such cases.

[(2) PRIORITIES.—(A) The Secretary shall establish research and demonstration priorities for making grants or contracts for purposes of carrying out paragraph (1)(A) and activities under section 106.

[(B) In establishing research and demonstration priorities as required by subparagraph (A), the Secretary shall—

[(i) publish proposed priorities in the Federal Register for public comment; and

[(ii) allow not less than 60 days for public comment on such proposed priorities.

**[(b) PUBLICATION AND DISSEMINATION OF INFORMATION.—**The Secretary shall, through the Center—

[(1) as a part of research activities, establish a national data collection and analysis program—

[(A) which, to the extent practicable, coordinates existing State child abuse and neglect reports and which shall include—

[(i) standardized data on false, unfounded, or unsubstantiated reports; and



[(ii) information on the number of deaths due to child abuse and neglect; and

[(B) which shall collect, compile, analyze, and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case specific, and integrated with other case-based foster care and adoption data collected by the Secretary;

[(2) annually compile and analyze research on child abuse and neglect and publish a summary of such research;

[(3) compile, evaluate, publish, and disseminate to the States and to the clearinghouse, established under section 104, materials and information designed to assist the States in developing, establishing, and operating the programs described in section 109, including an evaluation of—

[(A) various methods and procedures for the investigation and prosecution of child physical and sexual abuse cases; and

[(B) resultant psychological trauma to the child victim;

[(4) compile, publish, and disseminate training materials—

[(A) for persons who are engaged in or intend to engage in the prevention, identification, and treatment of child abuse and neglect; and

[(B) to appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse; and

[(5) establish model information collection systems, in consultation with appropriate State and local agencies and professionals.

[(c) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall, through the Center, provide technical assistance to public and nonprofit private agencies and organizations, including disability organizations and persons who work with children with disabilities, to assist such agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

[(d) AUTHORITY TO MAKE GRANTS OR ENTER INTO CONTRACTS.—

[(1) IN GENERAL.—The functions of the Secretary under this section may be carried out either directly or through grant or contract.

[(2) DURATION.—Grants under this section shall be made for periods of not more than 5 years. The Secretary shall review each such grant at least annually, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant.

[(3) PREFERENCE FOR LONG-TERM STUDIES.—In making grants for purposes of conducting research under subsection

(a), the Secretary shall give special consideration to applications for long-term projects.

**[(e) PEER REVIEW FOR GRANTS.—**

**[(1) ESTABLISHMENT OF PEER REVIEW PROCESS.—**(A) The Secretary shall establish a formal peer review process for purposes of evaluating and reviewing applications for grants and contracts under this section and determining the relative merits of the projects for which such assistance is requested.

**[(B)** In establishing the process required by subparagraph (A), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Office of Human Development. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this section, but may not meet less than once a year.

**[(2) REVIEW OF APPLICATIONS FOR ASSISTANCE.—**Each peer review panel established under paragraph (1)(A) that reviews any application for a grant, contract, or other financial assistance shall—

**[(A)** determine and evaluate the merit of each project described in such application;

**[(B)** rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

**[(C)** make recommendations to the Secretary concerning whether the application for the project shall be approved.

**[(3) NOTICE OF APPROVAL.—**(A) The Secretary shall provide grants and contracts under this section from among the projects which the peer review panels established under paragraph (1)(A) have determined to have merit.

**[(B)** In the instance in which the Secretary approves an application for a program without having approved all applications ranked above such application (as determined under subsection (e)(2)(B)), the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit, as indicated on the list under subsection (e)(2)(B).

**[SEC. 106. GRANTS TO PUBLIC AGENCIES AND NONPROFIT PRIVATE ORGANIZATIONS FOR DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS.**

**[(a) GENERAL AUTHORITY.—**

**[(1) DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS.—**The Secretary, through the Center, shall, in accordance with subsections (b) and (c), make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations of such agencies or organizations) for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect.

[(2) EVALUATIONS.—In making grants or entering into contracts for demonstration projects, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or contract, or as a separate grant or contract entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

[(b) GRANTS FOR RESOURCE CENTERS.—The Secretary shall, directly or through grants or contracts with public or private non-profit organizations under this section, provide for the establishment of resource centers—

[(1) serving defined geographic areas;

[(2) staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect; and

[(3) providing advice and consultation to individuals, agencies, and organizations which request such services.

[(c) DISCRETIONARY GRANTS.—In addition to grants or contracts made under subsection (b), grants or contracts under this section may be used for the following:

[(1) Training programs—

[(A) for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect;

[(B) to provide culturally specific instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with disabilities; or

[(C) to improve the recruitment, selection, and training of volunteers serving in private and public nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally.

[(2) Such other innovative programs and projects as the Secretary may approve, including programs and projects for parent self-help, for prevention and treatment of alcohol and drug-related child abuse and neglect, and for home health visitor programs designed to reach parents of children in populations in which risk is high, that show promise of successfully preventing and treating cases of child abuse and neglect, and for a parent self-help program of demonstrated effectiveness which is national in scope.

[(3) Projects which provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.

[(4) Respite and crisis nursery programs provided by community-based organizations under the direction and supervision of hospitals.

[(5) Respite and crisis nursery programs provided by community-based organizations.

[(6)(A) Providing hospital-based information and referral services to—

[(i) parents of children with disabilities; and

[(ii) children who have been neglected or abused and their parents.

[(B) Except as provided in subparagraph (C)(iii), services provided under a grant received under this paragraph shall be provided at the hospital involved—

[(i) upon the birth or admission of a child with disabilities; and

[(ii) upon the treatment of a child for abuse or neglect.

[(C) Services, as determined as appropriate by the grantee, provided under a grant received under this paragraph shall be hospital-based and shall consist of—

[(i) the provision of notice to parents that information relating to community services is available;

[(ii) the provision of appropriate information to parents of a child with disabilities regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child;

[(iii) the provision of appropriate information to parents of a child who has been neglected or abused regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child and reduce the possibility of abuse or neglect;

[(iv) the provision of appropriate follow-up services to parents of a child described in subparagraph (B) after the child has left the hospital; and

[(v) where necessary, assistance in coordination of community services available to parents of children described in subparagraph (B).

The grantee shall assure that parental involvement described in this subparagraph is voluntary.

[(D) For purposes of this paragraph, a qualified grantee is a nonprofit acute care hospital that—

[(i) is in a combination with—

[(I) a health-care provider organization;

[(II) a child welfare organization;

[(III) a disability organization; and

[(IV) a State child protection agency;

[(ii) submits an application for a grant under this paragraph that is approved by the Secretary;

[(iii) maintains an office in the hospital involved for purposes of providing services under such grant;

[(iv) provides assurances to the Secretary that in the conduct of the project the confidentiality of medical, social, and personal information concerning any person described in subparagraph (A) or (B) shall be maintained, and shall be disclosed only to qualified persons providing required services described in subparagraph (C) for purposes relating to conduct of the project; and

[(v) assumes legal responsibility for carrying out the terms and conditions of the grant.

[(E) In awarding grants under this paragraph, the Secretary shall—

[(i) give priority under this section for two grants under this paragraph, provided that one grant shall be made to provide services in an urban setting and one grant shall be made to provide services in rural setting; and

[(ii) encourage qualified grantees to combine the amounts received under the grant with other funds available to such grantees.

[(7) Such other innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect as the Secretary may approve.

**[SEC. 107. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.**

[(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary, acting through the Center, shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective service system of each such State in—

[(1) the intake and screening of reports of abuse and neglect through the improvement of the receipt of information, decisionmaking, public awareness, and training of staff;

[(2)(A) investigating such reports through improving response time, decisionmaking, referral to services, and training of staff;

[(B) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and

[(C) improving legal preparation and representation;

[(3) case management and delivery services provided to families through the improvement of response time in service provision, improving the training of staff, and increasing the numbers of families to be served;

[(4) enhancing the general child protective system by improving assessment tools, automation systems that support the program, information referral systems, and the overall training of staff to meet minimum competencies; or

[(5) developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs.

Not more than 15 percent of a grant under this subsection may be expended for carrying out paragraph (5). The preceding sentence does not apply to any program or activity authorized in any of paragraphs (1) through (4).

[(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for a grant under subsection (a), such State shall—

[(1) have in effect a State law relating to child abuse and neglect, including—

[(A) provisions for the reporting of known and suspected instances of child abuse and neglect; and

[(B) provisions for immunity from prosecution under State and local laws for persons who report instances of

child abuse or neglect for circumstances arising from such reporting;

[(2) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child and of any other child under the same care who may be in danger of abuse or neglect;

[(3) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such—

[(A) administrative procedures;

[(B) personnel trained in child abuse and neglect prevention and treatment;

[(C) training procedures;

[(D) institutional and other facilities (public and private); and

[(E) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with child abuse and neglect cases in the State;

[(4) provide for—

[(A) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including methods to ensure that disclosure (and redisclosure) of information concerning child abuse or neglect involving specific individuals is made only to persons or entities that the State determines have a need for such information directly related to purposes of this Act; and

[(B) requirements for the prompt disclosure of all relevant information to any Federal, State, or local governmental entity, or any agent of such entity, with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

[(5) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

[(6) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

[(7) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to ensure that Federal funds made available under this Act for any fiscal year shall be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

[(8) provide for dissemination of information, including efforts to encourage more accurate reporting, to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect;

[(9) to the extent feasible, ensure that parental organizations combating child abuse and neglect receive preferential treatment; and

[(10) have in place for the purpose of responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

[(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

[(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

[(C) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

[(c) STATE PROGRAM PLAN.—To be eligible to receive a grant under this section, a State shall submit every four years a plan to the Secretary that specifies the child protective service system area or areas described in subsection (a) that the State intends to address with funds received under the grant. The plan shall describe the current system capacity of the State in the relevant area or areas from which to assess programs with grant funds and specify the manner in which funds from the State's programs will be used to make improvements. The plan required under this subsection shall contain, with respect to each area in which the State intends to use funds from the grant, the following information with respect to the State:

[(1) INTAKE AND SCREENING.—

[(A) STAFFING.—The number of child protective service workers responsible for the intake and screening of reports of abuse and neglect relative to the number of reports filed in the previous year.

[(B) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in report-taking, screening, decision-making, and referral for investigation.

[(C) PUBLIC EDUCATION.—An assessment of the State or local agency's public education program with respect to—

[(i) what is child abuse and neglect;

[(ii) who is obligated to report and who may choose to report; and

[(iii) how to report.

[(2) INVESTIGATION OF REPORTS.—

[(A) RESPONSE TIME.—The number of reports of child abuse and neglect filed in the State in the previous year where appropriate, the agency response time to each with respect to initial investigation, the number of substantiated and unsubstantiated reports, and where appropriate, the response time with respect to the provision of services.

[(B) STAFFING.—The number of child protective service workers responsible for the investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

[(C) INTERAGENCY COORDINATION.—A description of the extent to which interagency coordination processes exist and are available Statewide, and whether protocols or formal policies governing interagency relationships exist in the following areas—

[(i) multidisciplinary investigation teams among child welfare and law enforcement agencies;

[(ii) interagency coordination for the prevention, intervention and treatment of child abuse and neglect among agencies responsible for child protective services, criminal justice, schools, health, mental health, and substance abuse; and

[(iii) special interagency child fatality review panels, including a listing of those agencies that are involved.

[(D) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as investigation, risk assessment, court preparation, and referral to and provision of services.

[(E) LEGAL REPRESENTATION.—A description of the State agency's current capacity for legal representation, including the manner in which workers are prepared and trained for court preparation and attendance, including procedures for appealing substantiated reports of abuse and neglect.

[(3) CASE MANAGEMENT AND DELIVERY OF ONGOING FAMILY SERVICES.—For children for whom a report of abuse and neglect has been substantiated and the children remain in their own homes and are not currently at risk of removal, the State shall assess the activities and the outcomes of the following services:

[(A) RESPONSE TIME.—The number of cases opened for services as a result of investigation of child abuse and neglect reports filed in the previous year, including the response time with respect to the provision of services from the time of initial report and initial investigation.

[(B) STAFFING.—The number of child protective service workers responsible for providing services to children and their families in their own homes as a result of investigation of reports of child abuse and neglect.



【(C) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as risk assessment, court preparation, provision of services and determination of case disposition, including how such training is evaluated for effectiveness.

【(D) INTERAGENCY COORDINATION.—The extent to which treatment services for the child and other family members are coordinated with child welfare, social service, mental health, education, and other agencies.

【(4) GENERAL SYSTEM ENHANCEMENT.—

【(A) AUTOMATION.—A description of the capacity of current automated systems for tracking reports of child abuse and neglect from intake through final disposition and how personnel are trained in the use of such system.

【(B) ASSESSMENT TOOLS.—A description of whether, how, and what risk assessment tools are used for screening reports of abuse and neglect, determining whether child abuse and neglect has occurred, and assessing the appropriate level of State agency protection and intervention, including the extent to which such tool is used statewide and how workers are trained in its use.

【(C) INFORMATION AND REFERRAL.—A description and assessment of the extent to which a State has in place—

【(i) information and referral systems, including their availability and ability to link families to various child welfare services such as homemakers, intensive family-based services, emergency caretakers, home health visitors, daycare and services outside the child welfare system such as housing, nutrition, health care, special education, income support, and emergency resource assistance; and

【(ii) efforts undertaken to disseminate to the public information concerning the problem of child abuse and neglect and the prevention and treatment programs and services available to combat instances of such abuse and neglect.

【(D) STAFF CAPACITY AND COMPETENCE.—An assessment of basic and specialized training needs of all staff and current training provided staff. Assessment of the competencies of staff with respect to minimum knowledge in areas such as child development, cultural and ethnic diversity, functions and relationship of other systems to child protective services and in specific skills such as interviewing, assessment, and decisionmaking relative to the child and family, and the need for training consistent with such minimum competencies.

【(5) INNOVATIVE APPROACHES.—A description of—

【(A) research and demonstration efforts for developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs, including the interagency efforts at the State level; and

[(B) the manner in which proposed research and development activities build on existing capacity in the programs being addressed.

[(d) WAIVERS.—

[(1) GENERAL RULE.—Subject to paragraph (3) of this subsection, any State which does not qualify for assistance under this subsection may be granted a waiver of any requirement under paragraph (2) of this subsection—

[(A) for a period of not more than one year, if the Secretary makes a finding that such State is making a good faith effort to comply with any such requirement, and for a second one-year period if the Secretary makes a finding that such State is making substantial progress to achieve such compliance; or

[(B) for a nonrenewable period of not more than two years in the case of a State the legislature of which meets only biennially, if the Secretary makes a finding that such State is making a good faith effort to comply with such requirement.

[(2) EXTENSION.—(A) Subject to paragraph (3) of this subsection, any State whose waiver under paragraph (1) expired as of the end of fiscal year 1986 may be granted an extension of such waiver, if the Secretary makes a finding that such State is making a good faith effort to comply with the requirements under subsection (b) of this section—

[(i) through the end of fiscal year 1988; or

[(ii) in the case of a State the legislature of which meets biennially, through the end of the fiscal year 1989 or the end of the next regularly scheduled session of such legislature, whichever is earlier.

[(B) This provision shall be effective retroactively to October 1, 1986.

[(3) REQUIREMENTS UNDER SUBSECTION (b)(10).—No waiver under paragraph (1) or (2) may apply to any requirement under subsection (b)(10) of this section.

[(e) REDUCTION OF FUNDS IN CASE OF FAILURE TO OBLIGATE.—If a State fails to obligate funds awarded under subsection (a) before the expiration of the 18-month period beginning on the date of such award, the next award made to such State under this section after the expiration of such period shall be reduced by an amount equal of the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

[(f) RESTRICTIONS RELATING TO CHILD WELFARE SERVICES.—Programs or projects relating to child abuse and neglect assisted under part B of title IV of the Social Security Act shall comply with the requirements set forth in paragraphs (1)(A), (2), (4), (5), and (10) of subsection (b).

[(g) COMPLIANCE AND EDUCATION GRANTS.—The Secretary is authorized to make grants to the States for purposes of developing, implementing, or operating—

[(1) the procedures or programs required under subsection (b)(10);

[(2) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

[(A) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

[(B) the parents of such infants; and

[(3) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

[(A) existing social and health services;

[(B) financial assistance; and

[(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption.

**[SEC. 108. TECHNICAL ASSISTANCE TO STATES FOR CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS.]**

[(a) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide, directly or through grants or contracts with public or private nonprofit organizations, for—

[(1) training and technical assistance programs to assist States in developing, implementing, or operating programs and procedures meeting the requirements of section 107(b)(10); and

[(2) the establishment and operation of national and regional information and resource clearinghouses for the purpose of providing the most current and complete information regarding medical treatment procedures and resources and community resources for the provision of services and treatment to disabled infants with life-threatening conditions, including—

[(A) compiling, maintaining, updating, and disseminating regional directories of community services and resources (including the names and phone numbers of State and local medical organizations) to assist parents, families, and physicians; and

[(B) attempting to coordinate the availability of appropriate regional education resources for health-care personnel.

[(b) LIMITATION ON FUNDING.—Not more than \$1,000,000 of the funds appropriated for any fiscal year for purposes of carrying out this title may be used to carry out this section.

**[SEC. 109. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.]**

[(a) GRANTS TO STATES.—The Secretary, acting through the Center and in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

[(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

[(2) the handling of cases of suspected child abuse or neglect related fatalities; and

[(3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.

[(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for assistance under this section, such State shall—

[(1) fulfill the requirements of sections

[(2) establish a task force as provided in subsection (c);

[(3) fulfill the requirements of subsection (d);

[(4) submit annually an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

[(A) make such reports to the Secretary as may reasonably be required; and

[(B) maintain and provide access to records relating to activities under subsections (a) and (b); and

[(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a).

[(c) STATE TASK FORCES.—

[(1) GENERAL RULE.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate, and maintain a State multidisciplinary task force on children's justice (hereinafter referred to as "State task force") composed of professionals with knowledge and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities. The State task force shall include—

[(A) individuals representing the law enforcement community;

[(B) judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);

[(C) child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;

[(D) health and mental health professionals;

[(E) individuals representing child protective service agencies;

[(F) individuals experienced in working with children with disabilities

[(G) parents; and

[(H) representatives of parents' groups.

[(2) EXISTING TASK FORCE.—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

[(d) STATE TASK FORCE STUDY.—Before a State receives assistance under this section, and at three year intervals thereafter, the State task force shall comprehensively—

[(1) review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal;

[(2) make policy and training recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

[(e) ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.—

[(1) GENERAL RULE.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

[(A) investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family and which also ensures procedural fairness to the accused;

[(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases, and which also ensure procedural fairness to the accused; and

[(C) reform of State laws, ordinances, regulations, protocols and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.

[(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

[(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

[(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

[(f) FUNDS AVAILABLE.—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.

**[SEC. 110. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE.**

**[(a) CONSTRUCTION OF FACILITIES.—**

**[(1) RESTRICTION ON USE OF FUNDS.—**Assistance provided under this Act may not be used for construction of facilities.

**[(2) LEASE, RENTAL, OR REPAIR.—**The Secretary may authorize the use of funds received under this Act—

**[(A)** where adequate facilities are not otherwise available, for the lease or rental of facilities; or

**[(B)** for the repair or minor remodeling or alteration of existing facilities.

**[(b) GEOGRAPHICAL DISTRIBUTION.—**The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this Act among the States, among geographic areas of the Nation, and among rural and urban areas of the Nation. To the extent possible, the Secretary shall ensure that the citizens of each State receive assistance from at least one project under this Act.

**[(c) PREVENTION ACTIVITIES.—**The Secretary, in consultation with the task force and the board, shall ensure that a majority share of assistance under this Act is available for discretionary research and demonstration grants.

**[(d) LIMITATION.—**No funds appropriated for any grant or contract pursuant to authorizations made in this Act may be used for any purpose other than that for which such funds were authorized to be appropriated.

**[SEC. 111. COORDINATION OF CHILD ABUSE AND NEGLECT PROGRAMS.**

**[The Secretary shall prescribe regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination among programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds.**

**[SEC. 112. REPORTS.**

**[(a) COORDINATION EFFORTS.—**Not later than March 1 of the second year following the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report on efforts during the 2-year period preceding the date of the report to coordinate the objectives and activities of agencies and organizations which are responsible for programs and activities related to child abuse and neglect.

**[(b) EFFECTIVENESS OF STATE PROGRAMS AND TECHNICAL ASSISTANCE.—**Not later than two years after the first fiscal year for which funds are obligated under section 1404A of the Victims of Crime Act of 1984, the Secretary shall submit to the appropriate committees of Congress a report evaluating the effectiveness of—

**[(1)** assisted programs in achieving the objectives of section 109; and

**[(2)** the technical assistance provided under section 108.

**[SEC. 113. DEFINITIONS.**

**[For purposes of this title—**

**[(1)** the term “board” means the Advisory Board on Child Abuse and Neglect established under section 102;

[(2) the term “Center” means the National Center on Child Abuse and Neglect established under section 101;

[(3) the term “child” means a person who has not attained the lesser of—

[(A) the age of 18; or

[(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

[(4) the term “child abuse and neglect” means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by a person who is responsible for the child’s welfare, under circumstances which indicate that the child’s health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary;

[(5) the term “person who is responsible for the child’s welfare” includes—

[(A) any employee of a residential facility; and

[(B) any staff person providing out-of-home care;

[(6) the term “Secretary” means the Secretary of Health and Human Services;

[(7) the term “sexual abuse” includes—

[(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

[(B) the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

[(8) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

[(9) the term “task force” means the Inter-Agency Task Force on Child Abuse and Neglect established under section 103; and

[(10) the term “withholding of medically indicated treatment” means the failure to respond to the infant’s life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment—

[(A) the infant is chronically and irreversibly comatose;

[(B) the provision of such treatment would—

[(i) merely prolong dying;

[(ii) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or

[(iii) otherwise be futile in terms of the survival of the infant; or

[(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

**[SEC. 114. AUTHORIZATION OF APPROPRIATIONS.**

[(a) IN GENERAL.—

[(1) AUTHORIZATION.—There are authorized to be appropriated to carry out this title, except for section 107A, \$100,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

[(2) ALLOCATIONS.—

[(A) Of the amounts appropriated under paragraph (1) for a fiscal year, \$5,000,000 shall be available for the purpose of making additional grants to the States to carry out the provisions of section 107(g).

[(B) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A)—

[(i) 33 $\frac{1}{3}$  percent shall be available for activities under sections 104, 105 and 106; and

[(ii) 66 $\frac{2}{3}$  percent of such amounts shall be made available in each such fiscal year for activities under sections 107 and 108.

[(b) AVAILABILITY OF FUNDS WITHOUT FISCAL YEAR LIMITATION.—The Secretary shall ensure that funds appropriated pursuant to authorizations in this title shall remain available until expended for the purposes for which they were appropriated.

## **[TITLE II—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS**

**[SEC. 201. COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.**

[(a) PURPOSE.—The purpose of this title is to assist each State to develop and implement, or expand and enhance, a comprehensive, statewide system of family resource services through innovative funding mechanisms and collaboration with existing education, vocational rehabilitation, health, mental health, employment and training, child welfare, and other social services agencies within the State.

[(b) AUTHORITY.—The Secretary shall make grants to States on a formula basis for the purpose of—

[(1) establishing and expanding statewide networks of community-based family resource programs, including funds for the initial costs of providing specific family resource services, that ensure family involvement in the design and operation of family resource programs which are responsive to the unique and diverse strengths of children and families;

[(2) promoting child abuse and neglect prevention activities;

[(3) promoting the establishment and operation of State trust funds or other mechanisms for integrating child and fam-



ily services funding streams in order to provide flexible funding for the development of community-based family resource programs;

[(4) establishing or expanding community-based collaboration to foster the development of a continuum of preventive services for children and families, which are family-centered and culturally competent;

[(5) encouraging public and private partnerships in the establishment and expansion of family resource programs; and

[(6) increasing and promoting interagency coordination among State agencies, and encouraging public and private partnerships in the establishment and expansion of family resource programs.

[(c) ELIGIBILITY FOR GRANTS.—A State is eligible for a grant under this section for any fiscal year if—

[(1) such State has established or maintained in the previous fiscal year—

[(A) a trust fund, including appropriations for such fund; or

[(B) any other mechanism that pools State, Federal, and private funds for integrating child and family service resources; and

[(2) such trust fund or other funding mechanism includes (in whole or in part) provisions making funding available specifically for a broad range of child abuse and neglect prevention activities and family resource programs.

[(d) AMOUNT OF GRANT.—

[(1) IN GENERAL.—Amounts appropriated for a fiscal year to provide grants under this section shall be allotted to the designated lead agencies of eligible States in each fiscal year so that—

[(A) 50 percent of the total amount appropriated for such fiscal year is allotted among each State based on the number of children under the age of 18 residing in each State, except that each State shall receive not less than \$100,000; and

[(B) the remaining 50 percent of the total amount appropriated for such fiscal year is allotted in an amount equal to 25 percent of the total amount allocated by each such State to the State's trust fund or other mechanism for integrating family resource services in the fiscal year prior to the fiscal year for which the allotment is being determined.

[(2) ALLOCATION.—Funds identified by the State for the purpose of qualifying for incentive funds under paragraph (1)(B) shall be allocated through the mechanism used to determine State eligibility under subsection (c) and shall be controlled by the lead agency described in subsection (f)(1).

[(e) EXISTING GRANTS.—A State or entity that has a grant in effect on the date of enactment of this section under the Family Resource and Support Program or the Emergency Child Abuse Prevention Grants Program shall continue to receive funds under such Programs, subject to the original terms under which such funds were granted, through the end of the applicable grant cycle.

[(f) APPLICATION.—No grant may be made to any eligible State under this section unless an application is prepared and submitted to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary determines to be essential to carry out the purposes and provisions of this section, including—

[(1) a description of the agency designated by the Chief Executive Officer of the State to administer the funds provided under this section and assume responsibility for implementation and oversight of the family resource programs and other child abuse and neglect prevention activities, and an assurance that the agency so designated—

[(A) is the trust fund advisory board, or an existing organization created by executive order or State statute that is not an existing State agency, that has interdisciplinary governance, including participants from communities, and that integrates family resource services and leverages State, Federal, and private funds for family resource programs; or

[(B) with respect to a State without a trust fund mechanism or other organization that meets the requirements of subparagraph (A), is an existing State agency, or other public, quasi-public, or nonprofit private agency responsible for the development and implementation of a statewide network of community-based family resource programs;

[(2) assurances that the agency designated under paragraph (1) can demonstrate the capacity to fulfill the purposes described in subsection (a), and shall have—

[(A) a demonstrated ability to work with other State and community-based agencies, to provide training and technical assistance;

[(B) a commitment to parental participation in the design and implementation of family resource programs;

[(C) the capacity to promote a statewide system of family resource programs throughout the State; and

[(D) the capacity to exercise leadership in implementing effective strategies for capacity building, family and professional training, and access to, and funding for, family resource services across agencies;

[(3) an assurance that the State has an interagency process coordinated by the agency designated in paragraph (1) for effective program development that—

[(A) does not duplicate existing processes for developing collaborative efforts to better serve children and families;

[(B) provides a written strategic plan for the establishment of a network of family resource programs (publicly available and funded through public and private sources) that identifies specific measurable goals and objectives;

[(C) involves appropriate personnel in the process, including—

[(i) parents (including parents of children with disabilities) and prospective participants in family resource programs, including respite care programs;

[(ii) staff of existing programs providing family resource services, including staff of Head Start programs and community action agencies that provide such services;

[(iii) representatives of State and local government such as social service, health, mental health, education, vocational rehabilitation, employment, economic development agencies, and organizations providing community services activities;

[(iv) representatives of the business community;

[(v) representatives of general purpose local governments;

[(vi) representatives of groups with expertise in child abuse prevention, including respite and crisis care;

[(vii) representatives of local communities in which family resource programs are likely to be located;

[(viii) representatives of groups with expertise in providing services to children with disabilities; and

[(ix) other individuals with expertise in the services that the family resource programs of the State intend to offer; and

[(D) coordinates activities funded under this title with—

[(i) the State Interagency Coordinating Council, established under part H of the Individuals with Disabilities Education Act;

[(ii) the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12));

[(iii) the State Rehabilitation Advisory Council established under the Rehabilitation Act of 1973;

[(iv) the State Development Disabilities Planning Council, established under the Developmental Disabilities Assistance and Bill of Rights Act;

[(v) the Head Start State Collaboration project;

[(vi) the State Advisory group designated in the Juvenile Justice and Delinquency Prevention Act of 1974; and

[(vii) other local or regional family service councils within the State, to the extent that such councils exist;

[(4) an inventory and description of the current family resource programs operating in the State, the current unmet need for the services provided under such programs, including the need for building increased capacity to provide specific family resource services, including respite care, and the intended scope of the State family resource program, the population to be served, the manner in which the program will be

operated, and the manner in which such program will relate to other community services and public agencies;

[(5) evidence that Federal assistance received under this section—

[(A) has been supplemented with non-Federal public and private assistance, including a description of the projected level of financial commitment by the State to develop a family resource network; and

[(B) will be used to supplement and not supplant other State and local public funds expended for family resource programs;

[(6) a description of the core services, as required by this section, and other support services to be provided by the program and the manner in which such services will be provided, including the extent to which either family resources, centers, home visiting, or community collaboratives will be used;

[(7) a description of any public information activities the agency designated in paragraph (1) will undertake for the purpose of promoting family stability and preventing child abuse and neglect, including child sexual abuse;

[(8) an assurance that the State will provide funds for the initial startup costs associated with specific family resource services, including respite services, and a description of the services to be funded;

[(9) assurances that the State program will maintain cultural diversity and be culturally competent;

[(10) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

[(11) a description of the State and community-based interagency planning processes to be utilized to develop and implement family resource programs;

[(12) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (g);

[(13) a description of the outreach and other activities the program will undertake to maximize the participation of racial and ethnic minorities, persons with limited English proficiency, individuals with disabilities, and members of other underserved or underrepresented groups in all phases of the program;

[(14) a plan for providing training, technical assistance, and other assistance to local communities in program development and networking activities;

[(15) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family resource programs within the State;

[(16) a description of proposed actions by the State that will facilitate the changing of laws, regulations, policies, practices, procedures, and organizational structures, that impede the availability or provision of family resource services; and

[(17) an assurance that the State will provide the Secretary with reports, at such time and containing such information as the Secretary may require.

[(g) LOCAL PROGRAM REQUIREMENTS.—

[(1) IN GENERAL.—A State that receives a grant under this section shall use amounts received under such grant to establish local family resource programs that—

[(A) undertake a community-based needs assessment and program planning process which involves parents, and local public and nonprofit agencies (including those responsible for providing health, education, vocational rehabilitation, employment training, Head Start and other early childhood, child welfare, and social services);

[(B) develop a strategy to provide comprehensive services to families to meet identified needs through collaboration, including public-private partnerships;

[(C) identify appropriate community-based organizations to administer such programs locally;

[(D) provide core services, and other services directly or through contracts or agreements with other local agencies;

[(E) involve parents in the development, operation, and governance of the program; and

[(F) participate in the development and maintenance of a statewide network of family resource programs.

[(2) PRIORITY.—In awarding local grants under this section, a State shall give priority to programs serving low-income communities and programs serving young parents or parents with young children and shall ensure that such grants are equitably distributed among urban and rural areas.

[(h) DEFINITIONS.—As used in this section:

[(1) CHILDREN WITH DISABILITIES.—The term “children with disabilities” has the meaning given such term in section 602(a)(2) of Individuals With Disabilities Education Act.

[(2) COMMUNITY REFERRAL SERVICES.—The term “community referral services” means services to assist families in obtaining community resources, including respite services, health and mental health services, employability development and job training and other social services.

[(3) CULTURALLY COMPETENT.—The term “culturally competent” means services, supports, or other assistance that is conducted or provided in a manner that—

[(A) is responsive to the beliefs, interpersonal styles, attitudes, languages, and behaviors of those individuals receiving services; and

[(B) has the greatest likelihood of ensuring maximum participation of such individuals.

[(4) FAMILY RESOURCE PROGRAM.—The term “family resource program” means a program that offers community-based services that provide sustained assistance and support to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

[(A) the provisions of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

[(B) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

[(C) the creation of supportive networks to enhance the childrearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

[(5) FAMILY RESOURCE SERVICES.—The term “family resource services” means—

[(A) core services that must be provided directly by the family resource program under this section, including—

[(i) education and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

[(ii) early developmental screening of children to assess the needs of such children and to identify the types of support to be provided;

[(iii) outreach services;

[(iv) community referral services; and

[(v) follow-up services; and

[(B) other services, which may be provided either directly or through referral, including—

[(i) early care and education (such as child care and Head Start);

[(ii) respite services;

[(iii) job readiness and counseling services (including skill training);

[(iv) education and literacy services;

[(v) nutritional education;

[(vi) life management skills training;

[(vii) peer counseling and crisis intervention, and family violence counseling services;

[(viii) referral for health (including prenatal care) and mental health services;

[(ix) substance abuse treatment; and

[(x) services to support families of children with disabilities that are designed to prevent inappropriate out-of-the-home placement and maintain family unity.

[(6) INTERDISCIPLINARY GOVERNANCE.—The term “interdisciplinary governance” includes governance by representatives from communities and representatives from existing health, mental health, education, vocational rehabilitation, employment and training, child welfare, and other agencies within the State.

[(7) OUTREACH SERVICES.—The term “outreach services” means services provided to ensure (through home visits or other methods) that parents and other caretakers are aware of and able to participate in family resource program activities.

[(8) RESPITE SERVICES.—The term “respite services” means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, guardian) to children who meet one or more of the following categories:

[(A) The children are in danger of abuse or neglect.

[(B) The children have experienced abuse or neglect.

[(C) The children have disabilities, or chronic or terminal illnesses.

Services provided within or outside the child’s home shall be short-term care, ranging from a few hours to a few weeks of time, per year, and be intended to enable the family to stay together and to keep the child living in the child’s home and community.

[(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title, \$50,000,000 for fiscal year 1995.

### **[TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS**

#### **[SEC. 301. DEMONSTRATION GRANTS FOR PREVENTION OF INAPPROPRIATE SEPARATION FROM FAMILY AND FOR PREVENTION OF CHILD ABUSE AND NEGLECT.**

[(a) ESTABLISHMENT OF PROGRAM.—The Secretary may make grants to entities described in subsection (b)(1) for the purpose of assisting such entities in demonstrating, with respect to children whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

[(1) the inappropriate separation of such children from their families on the basis of homelessness or other problems regarding the availability and conditions of housing for such families; and

[(2) the abuse and neglect of such children.

[(b) MINIMUM QUALIFICATIONS OF GRANTEEES.—

[(1) IN GENERAL.—The entities referred to in subsection (a) are State and local agencies that provide services in geographic areas described in paragraph (2), and that have authority—

[(A) for removing children, temporarily or permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foster care or other out-of-home care; or

[(B) in the case of youths not less than 16 years of age for whom such a placement has been made, for assisting such youths in preparing to be discharged from such care into circumstances of providing for their own support.

[(2) ELIGIBLE GEOGRAPHIC AREAS.—The geographic areas referred to in paragraph (1) are geographic areas in which homelessness and other housing problems are—

[(A) threatening the well-being of children; and

[(B)(i) contributing to the placement of children in out-of-home care;

[(ii) preventing the reunification of children with their families; or

[(iii) in the case of youths not less than 16 years of age who have been placed in out-of-home care, preventing such youths from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

[(3) COOPERATION WITH APPROPRIATE PUBLIC AND PRIVATE ENTITIES.—The Secretary shall not make a grant under subsection (a) unless the agency involved has entered into agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

[(c) REQUIREMENT OF MATCHING FUNDS.—

[(1) IN GENERAL.—The Secretary shall not make a grant under subsection (a) unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than \$1 for each \$4 of Federal funds provided in such grant.

[(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

**[SEC. 302. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF DEMONSTRATION GRANTS.**

[(a) JOINT TRAINING OF APPROPRIATE SERVICE PERSONNEL.—

[(1) IN GENERAL.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

[(2) SPECIFICATION OF TRAINING SUBJECTS.—The subjects referred to in paragraph (1) are—

[(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

[(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

[(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged place-



ment in out-of-home care of children whose families are homeless or who have other housing problems.

[(b) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to activities authorized in subsection (a), a grantee under section 301(a) may expend grant funds for—

[(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

[(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

[(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

[(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

[(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

[(B) in obtaining appropriate resources for families who need social services, including supportive services and respite care;

[(3) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and

[(4) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

**[SEC. 303. ADDITIONAL REQUIRED AGREEMENTS.**

[(a) REPORTS TO SECRETARY.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees that such agency will—

[(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

[(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

[(A) the incidence of placements of children in out-of-home care;

[(B) the reunification of children with their families; and

[(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

[(b) EVALUATION BY THE SECRETARY.—The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 301(a) in—

[(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

[(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

[(3) facilitating the reunification of children with their families; and

[(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

[(c) REPORT TO CONGRESS.—

[(1) PREPARATION OF LIST.—Not later than April 1, 1991, the Secretary, after consultation with the Secretary of Education, the Secretary of Housing and Urban Development and the Secretary of Labor, shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a list of Federal programs that provide services, or fund grants, contracts, or cooperative agreements for the provision of services, directed to the prevention of homelessness for families whose children are at risk of out of home placement and the incidence of child abuse that may be associated with homelessness, that shall include programs providing—

[(A) rent, utility, and other subsidies;

[(B) training; and

[(C) for inter-agency coordination, at both the local and State and Federal level.

[(2) CONTENTS OF LIST.—The list prepared under paragraph (1) shall include a description of—

[(A) the appropriate citations relating to the authority for such programs;

[(B) entities that are eligible to participate in each such program;

[(C) authorization levels and the annual amounts appropriated for such programs for each fiscal year in which such programs were authorized;

[(D) the agencies and divisions administering each such program;

[(E) the expiration date of the authority of each such program; and

[(F) to the extent available, the extent to which housing assistance under such programs can be accessed by child welfare and other appropriate agencies.

[(3) REPORT.—Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains a description of the activities carried out under this title, and an assessment of the effectiveness of such programs in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

[(A) information describing the localities in which activities are conducted;

[(B) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

[(C) information concerning the nature of the joint training conducted with grant funds;

[(D) information concerning the manner in which other agencies such as child welfare, public housing authorities, and appropriate public and nonprofit private entities are consulting and coordinating with existing programs that are designed to prevent homelessness and to serve homeless families and youth; and

[(E) information concerning the impact of programs supported with grant funds under this title on—

[(i) the incidence of the placement of children into out-of-home care;

[(ii) the reunification of children with their families; and

[(iii) in the case of youth not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

[(d) **RESTRICTION ON USE OF GRANT.**—The Secretary may not make a grant under section 301(a) unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

**[SEC. 304. DESCRIPTION OF INTENDED USES OF GRANT.**

[(The Secretary shall not make a grant under section 301(a) unless—

[(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

[(2) with respect to the entities with which the agency has made agreements pursuant to section 301(b)(1), such entities have assisted the agency in preparing the description required in paragraph (1); and

[(3) the description includes a statement of the methods that the agency will utilize in conducting the evaluations required in section 303(a)(2).

**[SEC. 305. REQUIREMENT OF SUBMISSION OF APPLICATION.**

[(The Secretary shall not make a grant under section 301(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 304, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

**[SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

[(a) **IN GENERAL.**—For the purpose of carrying out this title, there are authorized to be appropriated \$12,500,000 for fiscal year

1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

[(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.]

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the “Child and Family Services Block Grant Act of 1996”.*

**SEC. 2. FINDINGS.**

*The Congress finds the following:*

(1) *Each year, close to 1,000,000 American children are victims of abuse and neglect.*

(2) *Many of these children and their families fail to receive adequate protection or treatment.*

(3) *The problem of child abuse and neglect requires a comprehensive approach that—*

(A) *integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;*

(B) *strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;*

(C) *emphasizes the need for abuse and neglect prevention, assessment, investigation, and treatment at the neighborhood level;*

(D) *ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and*

(E) *is sensitive to ethnic and cultural diversity.*

(4) *The child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social reintegration in an environment that fosters the health, safety, self-respect, and dignity of the child.*

(5) *The Federal Government should provide leadership and assist communities in their child and family protection efforts by—*

(A) *generating and sharing knowledge relevant to child and family protection, including the development of models for service delivery;*

(B) *strengthening the capacity of States to assist communities;*

(C) *helping communities to carry out their child and family protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and*

(D) *providing leadership to end the abuse and neglect of the Nation’s children and youth.*

**SEC. 3. PURPOSES.**

*The purposes of this Act are the following:*

(1) *To assist each State in improving the child protective service systems of such State by—*

(A) improving risk and safety assessment tools and protocols;

(B) developing, strengthening, and facilitating training opportunities for individuals who are mandated to report child abuse or neglect or otherwise overseeing, investigating, prosecuting, or providing services to children and families who are at risk of abusing or neglecting their children; and

(C) developing, implementing, or operating information, education, training, or other programs designed to assist and provide services for families of disabled infants with life-threatening conditions.

(2) To support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that are culturally competent and that coordinate resources among existing education, vocational rehabilitation, disability, respite, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State.

(3) To facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs, including disabled infants with life-threatening conditions, by—

(A) promoting model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption;

(B) providing a mechanism for the Department of Health and Human Services to—

(i) promote quality standards for adoption services, preplacement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

(ii) maintain a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and

(iii) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan; and

(C) facilitating the identification and recruitment of foster and adoptive families that can meet children's needs.

(4) To respond to the needs of children, in particular those who are drug exposed or afflicted with Acquired Immune Deficiency Syndrome (AIDS), by supporting activities aimed at preventing the abandonment of children, providing support to children and their families, and facilitating the recruitment and training of health and social service personnel.

(5) *To carry out any other activities as the Secretary determines are consistent with this Act.*

**SEC. 4. DEFINITIONS.**

*As used in this Act:*

(1) *CHILD.*—*The term “child” means a person who has not attained the lesser of—*

*(A) the age of 18; or*

*(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides.*

(2) *CHILD ABUSE AND NEGLECT.*—*The term “child abuse and neglect” means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.*

(3) *FAMILY RESOURCE AND SUPPORT PROGRAMS.*—*The term “family resource and support program” means a community-based, prevention-focused entity that—*

*(A) provides, through direct service, the core services required under this Act, including—*

*(i) parent education, support and leadership services, together with services characterized by relationships between parents and professionals that are based on equality and respect, and designed to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;*

*(ii) services to facilitate the ability of parents to serve as resources to one another (such as through mutual support and parent self-help groups);*

*(iii) early developmental screening of children to assess any needs of children, and to identify types of support that may be provided;*

*(iv) outreach services provided through voluntary home visits and other methods to assist parents in becoming aware of and able to participate in family resources and support program activities;*

*(v) community and social services to assist families in obtaining community resources; and*

*(vi) followup services;*

*(B) provides, or arranges for the provision of, other core services through contracts or agreements with other local agencies; and*

*(C) provides access to optional services, directly or by contract, purchase of service, or interagency agreement, including—*

*(i) child care, early childhood development and early intervention services;*

*(ii) self-sufficiency and life management skills training;*

*(iii) education services, such as scholastic tutoring, literacy training, and General Educational Degree services;*

- (iv) job readiness skills;
- (v) child abuse and neglect prevention activities;
- (vi) services that families with children with disabilities or special needs may require;
- (vii) community and social service referral;
- (viii) peer counseling;
- (ix) referral for substance abuse counseling and treatment; and
- (x) help line services.

(4) *INDIAN TRIBE AND TRIBAL ORGANIZATION.*—The terms “Indian tribe” and “tribal organization” shall have the same meanings given such terms in subsections (e) and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e) and (l)).

(5) *RESPIRE SERVICES.*—The term “respite services” means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

- (A) are in danger of abuse or neglect;
- (B) have experienced abuse or neglect; or
- (C) have disabilities, chronic, or terminal illnesses.

Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.

(6) *SECRETARY.*—The term “Secretary” means the Secretary of Health and Human Services.

(7) *SEXUAL ABUSE.*—The term “sexual abuse” includes—

- (A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or
- (B) the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children.

(8) *STATE.*—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(9) *WITHHOLDING OF MEDICALLY INDICATED TREATMENT.*—The term “withholding of medically indicated treatment” means the failure to respond to the infant’s life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment—

- (A) the infant is chronically and irreversibly comatose;
- (B) the provision of such treatment would—

- (i) merely prolong dying;
- (ii) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or
- (iii) otherwise be futile in terms of the survival of the infant; or
- (C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

## **TITLE I—GENERAL BLOCK GRANT**

### **SEC. 101. CHILD AND FAMILY SERVICES BLOCK GRANTS.**

(a) *ELIGIBILITY.*—The Secretary shall award grants to eligible States that file a State plan that is approved under section 102 and that otherwise meet the eligibility requirements for grants under this title.

(b) *AMOUNT OF GRANT.*—The amount of a grant made to each State under subsection (a) for a fiscal year shall be based on the population of children under the age of 18 residing in each State that applies for a grant under this section.

(c) *USE OF AMOUNTS.*—Amounts received by a State under a grant awarded under subsection (a) shall be used to carry out the purposes described in section 3.

### **SEC. 102. ELIGIBLE STATES.**

(a) *IN GENERAL.*—As used in this title, the term “eligible State” means a State that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:

(1) *OUTLINE OF CHILD PROTECTION PROGRAM.*—A written document that outlines the activities the State intends to conduct to achieve the purpose of this title, including the procedures to be used for—

(A) receiving and assessing reports of child abuse or neglect;

(B) investigating such reports;

(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;

(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;

(F) protecting children in foster care;

(G) promoting timely adoptions;

(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards; and



(1) *providing services to individuals, families, or communities, either directly or through referral, that are aimed at preventing the occurrence of child abuse and neglect.*

(2) *CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.—A certification that the State has in effect laws that require public officials and other professionals to report, in good faith, actual or suspected instances of child abuse or neglect.*

(3) *CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.*

(4) *CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.*

(5) *CERTIFICATION OF PROVISIONS FOR APPOINTMENT OF GUARDIAN AD LITEM.—A certification that the State has in effect laws and procedures requiring the appointment of a guardian ad litem in every case involving an abused or neglected child which results in a judicial proceeding.*

(6) *CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.—A certification that the State has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.*

(7) *CERTIFICATION OF PROVISIONS AND PROCEDURES FOR EXPUNGEMENT OF CERTAIN RECORDS.—A certification that the State has in effect laws and procedures requiring the facilitation of the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false.*

(8) *CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.*

(9) *CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22),*

years of age, and who do not have a family to which to be returned.

(10) *CERTIFICATION OF STATE PROCEDURES TO RESPOND TO REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.*—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

(C) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

(11) *IDENTIFICATION OF CHILD PROTECTION GOALS.*—The quantitative goals of the State child protection program.

(12) *CERTIFICATION OF CHILD PROTECTION STANDARDS.*—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—

(A) has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

(i) the appropriateness of, and necessity for, the foster care placement;

(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

(B) is operating, to the satisfaction of the Secretary—

(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

(ii) a case review system for each child receiving foster care under the supervision of the State;

(iii) a service program designed to help children—  
(I) where appropriate, return to families from which they have been removed; or

(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is deter-

*mined not to be appropriate for a child, in some other planned, permanent living arrangement; and (iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and*

*(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and*

*(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.*

**(13) CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.—***A certification that the State in each case will—*

*(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child's home, and to make it possible for the child to return home; and*

*(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children where the State makes a determination that the child may safely remain with the family.*

**(14) CERTIFICATION OF CONFIDENTIALITY AND REQUIREMENTS FOR INFORMATION DISCLOSURE.—**

**(A) IN GENERAL.—***A certification that the State has in effect and operational—*

*(i) requirements ensuring that reports and records made and maintained pursuant to the purposes of this part shall only be made available to—*

*(I) individuals who are the subject of the report;*

*(II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out their responsibilities under law to protect children from abuse and neglect;*

*(III) child abuse citizen review panels;*

*(IV) child fatality review panels;*

*(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and*

*(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose; and*

*(ii) provisions that allow for public disclosure of the findings or information about cases of child abuse*

or neglect that have resulted in a child fatality or near fatality.

(B) *LIMITATION.*—Disclosures made pursuant to clause (i) or (ii) shall not include the identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect.

(C) *DEFINITION.*—For purposes of this paragraph, the term “near fatality” means an act that, as certified by a physician, places the child in serious or critical condition.

(b) *DETERMINATIONS.*—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a). The Secretary may not require a State to include in such a plan any material not described in subsection (a).

**SEC. 103. DATA COLLECTION AND REPORTING.**

(a) *NATIONAL CHILD ABUSE AND NEGLECT DATA SYSTEM.*—The Secretary shall establish a national data collection and analysis program—

(1) which, to the extent practicable, coordinates existing State child abuse and neglect reports and which shall include—

(A) standardized data on substantiated, as well as false, unfounded, or unsubstantiated reports; and

(B) information on the number of deaths due to child abuse and neglect; and

(2) which shall collect, compile, analyze, and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case-specific and integrated with other case-based foster care and adoption data collected by the Secretary.

(b) *ADOPTION AND FOSTER CARE AND ANALYSIS AND REPORTING SYSTEMS.*—The Secretary shall implement a system for the collection of data relating to adoption and foster care in the United States. Such data collection system shall—

(1) avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;

(2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;

(3) provide comprehensive national information with respect to—

(A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents;

(B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care);

(C) the number and characteristics of—

(i) children placed in or removed from foster care;

(ii) children adopted or with respect to whom adoptions have been terminated; and

(iii) children placed in foster care outside the State which has placement and care responsibility; and

(D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs

*and the characteristics of the children with respect to whom such assistance is provided; and*

*(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.*

*(c) ADDITIONAL INFORMATION.—The Secretary may require the provision of additional information under the data collection system established under subsection (b) if the addition of such information is agreed to by a majority of the States.*

*(d) ANNUAL REPORT BY THE SECRETARY.—Within 6 months after the end of each fiscal year, the Secretary shall prepare a report based on information provided by the States for the fiscal year pursuant to this section, and shall make the report and such information available to the Congress and the public.*

## **TITLE II—RESEARCH, DEMONSTRATIONS, TRAINING, AND TECHNICAL ASSISTANCE**

### **SEC. 201. RESEARCH GRANTS.**

*(a) IN GENERAL.—The Secretary, in consultation with appropriate Federal officials and recognized experts in the field, shall award grants or contracts for the conduct of research in accordance with subsection (b).*

*(b) RESEARCH.—Research projects to be conducted using amounts received under this section—*

*(1) shall be designed to provide information to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of any such research conducted under a project being field initiated;*

*(2) shall at a minimum, focus on—*

*(A) the nature and scope of child abuse and neglect;*

*(B) the causes, prevention, assessment, identification, treatment, cultural and socioeconomic distinctions, and the consequences of child abuse and neglect;*

*(C) appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse; and*

*(D) the national incidence of child abuse and neglect, including—*

*(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;*

*(ii) the incidence of substantiated and unsubstantiated reported child abuse cases;*

*(iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;*

*(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;*

(v) the extent to which the lack of adequate resources and the lack of adequate training of reporters have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;

(vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;

(vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;

(viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care;

(ix) the incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system; and

(x) the cases of children reunited with their families or receiving family preservation services that result in subsequent substantiated reports of child abuse and neglect, including the death of the child; and

(3) may include the appointment of an advisory board to—

(A) provide recommendations on coordinating Federal, State, and local child abuse and neglect activities at the State level with similar activities at the State and local level pertaining to family violence prevention;

(B) consider specific modifications needed in State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of abuse or neglect which place a child in danger; and

(C) provide recommendations for modifications needed to facilitate coordinated national and Statewide data collection with respect to child protection and child welfare.

**SEC. 202. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.**

(a) **ESTABLISHMENT.**—The Secretary shall, through the Department of Health and Human Services, or by one or more contracts of not less than 3 years duration provided through a competition, establish a national clearinghouse for information relating to child abuse.

(b) **FUNCTIONS.**—The Secretary shall, through the clearinghouse established by subsection (a)—

(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect;

(2) maintain and disseminate information relating to—

(A) the incidence of cases of child abuse and neglect in the United States;

(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child

*Abuse Prevention, Adoption, and Family Services Act of 1988 (as such section was in effect on the day before the date of enactment of this Act); and*

*(C) the incidence of any such cases related to alcohol or drug abuse;*

*(3) disseminate information related to data collected and reported by States pursuant to section 103;*

*(4) compile, analyze, and publish a summary of the research conducted under section 201; and*

*(5) solicit public comment on the components of such clearinghouse.*

**SEC. 203. GRANTS FOR DEMONSTRATION PROJECTS.**

*(a) AWARDING OF GENERAL GRANTS.—The Secretary may make grants to, and enter into contracts with, public and nonprofit private agencies or organizations (or combinations of such agencies or organizations) for the purpose of developing, implementing, and operating time limited, demonstration programs and projects for the following purposes:*

*(1) INNOVATIVE PROGRAMS AND PROJECTS.—The Secretary may award grants to public agencies that demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective service agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that—*

*(A) accepts, screens and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program or project;*

*(B) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and*

*(C) provides further investigation and intensive intervention where the child's safety is in jeopardy.*

*(2) KINSHIP CARE PROGRAMS AND PROJECTS.—The Secretary may award grants to public entities to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where, to the maximum extent practicable, such relatives comply with relevant State child protection standards.*

*(3) ADOPTION OPPORTUNITIES.—The Secretary may award grants to public entities to assist such entities in developing or implementing programs to expand opportunities for the adoption of children with special needs.*

*(4) FAMILY RESOURCE CENTERS.—The Secretary may award grants to public or nonprofit private entities to provide for the establishment of family resource programs and support services that—*

*(A) develop, expand, and enhance statewide networks of community-based, prevention-focused centers, programs, or services that provide comprehensive support for families;*

(B) promote the development of parental competencies and capacities in order to increase family stability;

(C) support the additional needs of families with children with disabilities;

(D) foster the development of a continuum of preventive services for children and families through State and community-based collaborations and partnerships (both public and private); and

(E) maximize funding for the financing, planning, community mobilization, collaboration, assessment, information and referral, startup, training and technical assistance, information management, reporting, and evaluation costs for establishing, operating, or expanding a statewide network of community-based, prevention-focused family resource and support services.

(5) **OTHER INNOVATIVE PROGRAMS.**—The Secretary may award grants to public or private nonprofit organizations to assist such entities in developing or implementing innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect (such as Parents Anonymous).

(b) **GRANTS FOR ABANDONED INFANT PROGRAMS.**—The Secretary may award grants to public and nonprofit private entities to assist such entities in developing or implementing procedures—

(1) to prevent the abandonment of infants and young children, including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child;

(2) to identify and address the needs of abandoned infants and young children;

(3) to assist abandoned infants and young children to reside with their natural families or in foster care, as appropriate;

(4) to recruit, train, and retain foster families for abandoned infants and young children;

(5) to carry out residential care programs for abandoned infants and young children who are unable to reside with their families or to be placed in foster care;

(6) to carry out programs of respite care for families and foster families of infants and young children; and

(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children.

(c) **EVALUATION.**—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

#### **SEC. 204. TECHNICAL ASSISTANCE.**

(a) **CHILD ABUSE AND NEGLECT.**—

(1) **IN GENERAL.**—The Secretary shall provide technical assistance under this title to States to assist such States in plan-



ning, improving, developing, and carrying out programs and activities relating to the prevention, assessment identification, and treatment of child abuse and neglect.

(2) *EVALUATION.*—Technical assistance provided under paragraph (1) may include an evaluation or identification of—

(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

(B) ways to mitigate psychological trauma to the child victim; and

(C) effective programs carried out by the States under this Act.

(b) *ADOPTION OPPORTUNITIES.*—The Secretary shall provide, directly or by grant to or contract with public or private nonprofit agencies or organizations—

(1) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

(2) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.

#### **SEC. 205. TRAINING RESOURCES.**

(a) *TRAINING PROGRAMS.*—The Secretary may award grants to public or private nonprofit organizations—

(1) for the training of professional and paraprofessional personnel in the fields of medicine, law, education, law enforcement, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse;

(2) to provide culturally specific instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with disabilities; and

(3) to improve the recruitment, selection, and training of volunteers serving in private and public nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally.

(b) *DISSEMINATION OF INFORMATION.*—The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—

(1) individuals who are engaged, or who intend to engage, in the prevention, identification, assessment, and treatment of child abuse and neglect; and

(2) appropriate State and local officials, including prosecutors, to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel in appropriate methods of interacting during investigative, admin-

*istrative, and judicial proceedings with children who have been subjected to abuse.*

**SEC. 206. APPLICATIONS AND AMOUNTS OF GRANTS.**

*(a) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant to a State or other entity under this title unless—*

*(1) an application for the grant is submitted to the Secretary;*

*(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and*

*(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.*

*(b) AMOUNT OF GRANT.—The Secretary shall determine the amount of a grant to be awarded under this title.*

**SEC. 207. PEER REVIEW FOR GRANTS.**

*(a) ESTABLISHMENT OF PEER REVIEW PROCESS.—*

*(1) IN GENERAL.—The Secretary shall, in consultation with experts in the field and other Federal agencies, establish a formal, rigorous, and meritorious peer review process for purposes of evaluating and reviewing applications for grants under this title and determining the relative merits of the projects for which such assistance is requested. The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect.*

*(2) REQUIREMENTS FOR MEMBERS.—In establishing the process required by paragraph (1), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Administration for Children and Families. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this title, but may not meet less than once a year. The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.*

*(b) REVIEW OF APPLICATIONS FOR ASSISTANCE.—Each peer review panel established under subsection (a)(1) that reviews any application for a grant shall—*

*(1) determine and evaluate the merit of each project described in such application;*

*(2) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and*

*(3) make recommendations to the Secretary concerning whether the application for the project shall be approved.*

*The Secretary shall award grants under this title on the basis of competitive review.*

*(c) NOTICE OF APPROVAL.—*

(1) *IN GENERAL.*—The Secretary shall provide grants under this title from among the projects which the peer review panels established under subsection (a)(1) have determined to have merit.

(2) *REQUIREMENT OF EXPLANATION.*—In the instance in which the Secretary approves an application for a program under this title without having approved all applications ranked above such application, the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit.

**SEC. 208. NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE.**

(a) *IN GENERAL.*—The Secretary shall conduct a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected, and such other research as may be necessary.

(b) *REQUIREMENTS.*—The study required by subsection (a) shall—

(1) have a longitudinal component; and

(2) yield data reliable at the State level for as many States as the Secretary determines is feasible.

(c) *PREFERRED CONTENTS.*—In conducting the study required by subsection (a), the Secretary should—

(1) collect data on the child protection programs of different small States (or different groups of such States) in different years to yield an occasional picture of the child protection programs of such States;

(2) carefully consider selecting the sample from cases of confirmed abuse or neglect; and

(3) follow each case for several years while obtaining information on, among other things—

(A) the type of abuse or neglect involved;

(B) the frequency of contact with State or local agencies;

(C) whether the child involved has been separated from the family, and, if so, under what circumstances;

(D) the number, type, and characteristics of out-of-home placements of the child; and

(E) the average duration of each placement.

(d) *REPORTS.*—

(1) *IN GENERAL.*—From time to time, the Secretary shall prepare reports summarizing the results of the study required by subsection (a).

(2) *AVAILABILITY.*—The Secretary shall make available to the public any report prepared under paragraph (1), in writing or in the form of an electronic data tape.

(3) *AUTHORITY TO CHARGE FEE.*—The Secretary may charge and collect a fee for the furnishing of reports under paragraph (2).

(4) *FUNDING.*—The Secretary shall carry out this section using amounts made available under section 425 of the Social Security Act.

## **TITLE III—GENERAL PROVISIONS**

### **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

(a) *TITLE I.*—There are authorized to be appropriated to carry out title I, \$230,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2002.

(b) *TITLE II.*—

(1) *IN GENERAL.*—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall make available 12 percent of such amount to carry out title II (except for sections 203 and 208).

(2) *GRANTS FOR DEMONSTRATION PROJECTS.*—Of the amount made available under paragraph (1) for a fiscal year, the Secretary shall make available not less than 40 percent of such amount to carry out section 203.

(c) *INDIAN TRIBES.*—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall make available 1 percent of such amount to provide grants and contracts to Indian tribes and Tribal Organizations.

(d) *AVAILABILITY OF APPROPRIATIONS.*—Amounts appropriated under subsection (a) shall remain available until expended.

### **SEC. 302. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.**

(a) *GRANTS TO STATES.*—The Secretary, in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

(2) the handling of cases of suspected child abuse or neglect related fatalities; and

(3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.

(b) *ELIGIBILITY REQUIREMENTS.*—In order for a State to qualify for assistance under this section, such State shall—

(1) be an eligible State under section 102;

(2) establish a task force as provided in subsection (c);

(3) fulfill the requirements of subsection (d);

(4) submit annually an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

(A) make such reports to the Secretary as may reasonably be required; and

(B) maintain and provide access to records relating to activities under subsection (a); and

(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a).

(c) *STATE TASK FORCES.*—

(1) *GENERAL RULE.*—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate, and maintain, a State multidisciplinary task force on children's justice (hereafter in this section referred to as "State task force") composed of professionals with knowledge and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities. The State task force shall include—

(A) individuals representing the law enforcement community;

(B) judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);

(C) child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;

(D) health and mental health professionals;

(E) individuals representing child protective service agencies;

(F) individuals experienced in working with children with disabilities;

(G) parents; and

(H) representatives of parents' groups.

(2) *EXISTING TASK FORCE.*—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

(d) *STATE TASK FORCE STUDY.*—Before a State receives assistance under this section, and at 3-year intervals thereafter, the State task force shall comprehensively—

(1) review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal; and

(2) make policy and training recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

(e) *ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.*—

(1) *GENERAL RULE.*—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

(A) investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases in-

*volving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family and which also ensures procedural fairness to the accused;*

*(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children; and*

*(C) reform of State laws, ordinances, regulations, protocols and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.*

*(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—*

*(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or*

*(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.*

*(f) FUNDS AVAILABLE.—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.*

#### **SEC. 303. TRANSITIONAL PROVISION.**

*A State or other entity that has a grant, contract, or cooperative agreement in effect, on the date of enactment of this Act, under the Family Resource and Support Program, the Community-Based Family Resource Program, the Family Support Center Program, the Emergency Child Abuse Prevention Grant Program, the Abandoned Infants Assistance Act of 1988, or the Temporary Child Care for Children with Disabilities and Crisis Nurseries Programs shall continue to receive funds under such grant, contract, or cooperative agreement, subject to the original terms under which such funds were provided, through the end of the applicable grant, contract, or agreement cycle.*

#### **SEC. 304. RULE OF CONSTRUCTION.**

*(a) IN GENERAL.—Nothing in this Act, or in part B or E of title IV of the Social Security Act, shall be construed—*

*(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian; and*

*(2) to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal*

*guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.*

(b) *STATE REQUIREMENT.*—Notwithstanding subsection (a), a State shall have in place authority under State law to permit the child protective service system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.

## **SECTION 408 OF THE MISSING CHILDREN'S ASSISTANCE ACT**

### **AUTHORIZATION OF APPROPRIATIONS**

SEC. 408. **[To]** (a) *IN GENERAL.*—To carry out the provisions of this title, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993, 1994, 1995, **[and 1996]** 1996, and 1997.

(b) *EVALUATION.*—The Administrator shall use not more than 5 percent of the amount appropriated for a fiscal year under subsection (a) to conduct an evaluation of the effectiveness of the programs and activities established and operated under this title.

## **SECTION 214B OF THE VICTIMS OF CHILD ABUSE ACT OF 1990**

### **SEC. 214B. AUTHORIZATION OF APPROPRIATIONS.**

(a) **SECTIONS 213 AND 214.**—There are authorized to be appropriated to carry out sections 213 and 214—

(1) \$15,000,000 for fiscal year 1993; and

(2) such sums as are necessary for fiscal years 1994, 1995, **[and 1996]** 1996, and 1997.

(b) **SECTION 214A.**—There are authorized to be appropriated to carry out section 214A—

(1) \$5,000,000 for fiscal year 1993; and

(2) such sums as are necessary for fiscal years 1994, 1995, **[and 1996]** 1996 and 1997.

## **CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978**

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### **[TITLE II—ADOPTION OPPORTUNITIES**

#### **[SEC. 201. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.**

**[(a) FINDINGS.**—Congress finds that—

[(1) the number of children in substitute care increased by nearly 50 percent between 1985 and 1990, as our Nation's foster care population included more than 400,000 children at the end of June, 1990;

[(2) increasingly children entering foster care have complex problems which require intensive services;

[(3) an increasing number of infants are born to mothers who did not receive prenatal care, are born addicted to alcohol and other drugs, and exposed to infection with the etiologic agent for the human immunodeficiency virus, are medically fragile, and technology dependent;

[(4) the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and some such children are in need of placement in permanent, adoptive homes;

[(5) many thousands of children remain in institutions or foster homes solely because of local and other barriers to their placement in permanent, adoptive homes;

[(6) the majority of such children are of school age, members of sibling groups or disabled;

[(7) currently one-half of children free for adoption and awaiting placement are minorities;

[(8) adoption may be the best alternative for assuring the healthy development of such children;

[(9) there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and

[(10) in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not have medically indicated treatment withheld from them nor be maintained in foster care or institutions when adoption is appropriate and families can be found for such children.

[(b) PURPOSE.—It is the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs, including disabled infants with life-threatening conditions, by—

[(1) promoting model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

[(2) providing a mechanism for the Department of Health and Human Services to—

[(A) promote quality standards for adoption services, pre-placement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

[(B) maintain a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and



[(C) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan.

[INFORMATION AND SERVICES

[SEC. 203. (a) The Secretary shall establish in the Department of Health and Human Services an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. The Secretary shall make available such consultant services, on-site technical assistance and personnel, together with appropriate administrative expenses, including salaries and travel costs, as are necessary for carrying out such purposes, including services to facilitate the adoption of children with special needs and particularly of disabled infants with life-threatening conditions and services to couples considering adoption of children with special needs. The Secretary shall, not later than 12 months after the date of enactment of this sentence, prepare and submit to the committees of Congress having jurisdiction over such services reports, as appropriate, containing appropriate data concerning the manner in which activities were carried out under this title, and such reports shall be made available to the public.

[(b) In connection with carrying out the provisions of this title, the Secretary shall—

[(1) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

[(2) conduct, directly or by grant or contract with public or private nonprofit organizations, ongoing, extensive recruitment efforts on a national level, develop national public awareness efforts to unite children in need of adoption with appropriate adoptive parents, and establish a coordinated referral system of recruited families with appropriate State or regional adoption resources to ensure that families are served in a timely fashion;

[(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption); and (B) the coordination of such system with similar State and regional systems;

[(4) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including adoptive family groups and minority groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption, and to promote professional leadership training of minorities in the adoption field;

[(5) encourage involvement of corporations and small businesses in supporting adoption as a positive family-strengthening option, including the establishment of adoption benefit programs for employees who adopt children;

[(6) continue to study the nature, scope, and effects of the placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity;

[(7) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of all programs within the Department of Health and Human Services relating to adoption;

[(8) maintain (directly or by grant to or contract with public or private nonprofit agencies or organizations) a National Resource Center for Special Needs Adoption to—

[(A) promote professional leadership development of minorities in the adoption field;

[(B) provide training and technical assistance to service providers and State agencies to improve professional competency in the field of adoption and the adoption of children with special needs; and

[(C) facilitate the development of interdisciplinary approaches to meet the needs of children who are waiting for adoption and the needs of adoptive families; and

[(9) provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience in working with minority populations) for the provision of programs aimed at increasing the number of minority children (who are in foster care and have the goal of adoption) placed in adoptive families, with a special emphasis on recruitment of minority families—

[(A) which may include such activities as—

[(i) outreach, public education, or media campaigns to inform the public of the needs and numbers of such children;

[(ii) recruitment of prospective adoptive families for such children;

[(iii) expediting, where appropriate, the legal availability of such children;

[(iv) expediting, where appropriate, the agency assessment of prospective adoptive families identified for such children;

[(v) formation of prospective adoptive family support groups;

[(vi) training of personnel of—

[(I) public agencies;

[(II) private nonprofit child welfare and adoption agencies that are licensed by the State; and

[(III) adoptive parents organizations and community-based organizations with experience in working with minority populations;

[(vii) use of volunteers and adoptive parent groups; and

[(viii) any other activities determined by the Secretary to further the purposes of this Act; and

[(B) shall be subject to the condition that such grants or contracts may be renewed if documentation is provided to the Secretary demonstrating that appropriate and sufficient placements of such children have occurred during the previous funding period.

[(c)(1) The Secretary shall provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups) for the provision of post legal adoption services for families who have adopted special needs children.

[(2) Services provided under grants made under this subsection shall supplement, not supplant, services from any other funds available for the same general purposes, including—

[(A) individual counseling;

[(B) group counseling;

[(C) family counseling;

[(D) case management;

[(E) training public agency adoption personnel, personnel of private, nonprofit child welfare and adoption agencies licensed by the State to provide adoption services, mental health services professionals, and other support personnel to provide services under this subsection;

[(F) assistance to adoptive parent organizations; and

[(G) assistance to support groups for adoptive parents, adopted children, and siblings of adopted children.

[(d)(1) The Secretary shall make grants for improving State efforts to increase the placement of foster care children legally free for adoption, according to a pre-established plan and goals for improvement. Grants funded by this section must include a strong evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption, and the successes and failures of the initiative. The evaluations will be submitted to the Secretary who will compile the results of projects funded by this section and submit a report to the appropriate committees of Congress. The emphasis of this program must focus on the improvement of the placement rate—not the aggregate number of special needs children placed in permanent homes. The Secretary, when reviewing grant applications shall give

priority to grantees who propose improvements designed to continue in the absence of Federal funds.

[(2) Each State entering into an agreement under this subsection shall submit an application to the Secretary for each fiscal year in a form and manner determined to be appropriate by the Secretary. Each application shall include verification of the placements described in paragraph (1).

[(3)(A) Payments under this subsection shall begin during fiscal year 1989. Payments under this section during any fiscal year shall not exceed \$1,000,000. No payment may be made under this subsection unless an amount in excess of \$5,000,000 is appropriated for such fiscal year under section 205(a).

[(B) Any payment made to a State under this subsection which is not used by such State for the purpose provided in paragraph (1) during the fiscal year payment is made shall revert to the Secretary on October 1st of the next fiscal year and shall be used to carry out the purposes of this Act.

#### [STUDY OF UNLICENSED ADOPTION PLACEMENTS

[SEC. 204. The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after the date of enactment of this Act) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

#### [AUTHORIZATION OF APPROPRIATIONS

[SEC. 205.(a) There are authorized to be appropriated, \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out programs and activities under this Act except for programs and activities authorized under sections 203(b)(9) and 203(c)(1).

[(b) For any fiscal year in which appropriations under subsection (a) exceeds \$5,000,000, there are authorized to be appropriated \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 203(b)(9), and there are authorized to be appropriated \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 203(c)(1).

[(c) The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.]

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## ABANDONED INFANTS ASSISTANCE ACT OF 1988

AN ACT To authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

    This Act may be cited as the “Abandoned Infants Assistance Act of 1988”.

### SEC. 2. FINDINGS.

    The Congress finds that—

    (1) throughout the Nation, the number of infants and young children who have been exposed to drugs taken by their mothers during pregnancy has increased dramatically;

    (2) the inability of parents who abuse drugs to provide adequate care for such infants and young children and a lack of suitable shelter homes for such infants and young children have led to the abandonment of such infants and young children in hospitals for extended periods;

    (3) an unacceptable number of these infants and young children will be medically cleared for discharge, yet remain in hospitals as boarder babies;

    (4) hospital-based child care for these infants and young children is extremely costly and deprives them of an adequate nurturing environment;

    (5) training is inadequate for foster care personnel working with medically fragile infants and young children and infants and young children exposed to drugs;

    (6) a particularly devastating development is the increase in the number of infants and young children who are infected with the human immunodeficiency virus (which is believed to cause acquired immune deficiency syndrome and which is commonly known as HIV) or who have been perinatally exposed to the virus or to a dangerous drug;

    (7) many such infants and young children have at least one parent who is an intravenous drug abuser;

    (8) such infants and young children are particularly difficult to place in foster homes, and are being abandoned in hospitals in increasing numbers by mothers dying of acquired immune deficiency syndrome, or by parents incapable of providing adequate care;

    (9) there is a need for comprehensive services for such infants and young children, including foster family care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services;

    (10) there is a need to support the families of such infants and young children through the provision of services that will prevent the abandonment of the infants and children; and

    (11) there is a need for the development of funding strategies that coordinate and make the optimal use of all private re-

sources, and Federal, State, and local resources, to establish and maintain such services.

## **[TITLE I—PROJECTS REGARDING ABANDONMENT OF INFANTS AND YOUNG CHILDREN IN HOSPITALS**

### **[SEC. 101. ESTABLISHMENT OF PROGRAM OF DEMONSTRATION PROJECTS.**

[(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to public and nonprofit private entities for the purpose of developing, implementing, and operating projects to demonstrate methods—

[(1) to prevent the abandonment of infants and young children, including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child;

[(2) to identify and address the needs of abandoned infants and young children;

[(3) to assist abandoned infants and young children to reside with their natural families or in foster care, as appropriate;

[(4) to recruit, train, and retain foster families for abandoned infants and young children;

[(5) to carry out residential care programs for abandoned infants and young children who are unable to reside with their families or to be placed in foster care;

[(6) to carry out programs of respite care for families and foster families of infants and young children described in subsection (b);

[(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children; and

[(8) to prevent the abandonment of infants and young children, and to care for the infants and young children who have been abandoned, through model programs providing health, educational, and social services at a single site in a geographic area in which a significant number of infants and young children described in subsection (b) reside (with special consideration given to applications from entities that will provide the services of the project through community-based organizations).

[(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in carrying out the purpose described in subsection (a) (other than with respect to paragraph (6) of such subsection), the applicant will give priority to abandoned infants and young children—

[(1) who are infected with the human immunodeficiency virus or who have been perinatally exposed to the virus; or

[(2) who have been perinatally exposed to a dangerous drug.

[(c) CASE PLAN WITH RESPECT TO FOSTER CARE.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant expends the grant to carry out any program of providing care to infants and young children in foster homes or in other nonmedical residential settings away from their parents, the applicant will ensure that—

[(1) a case plan of the type described in paragraph (1) of section 475 of the Social Security Act is developed for each such infant and young child (to the extent that such infant and young child is not otherwise covered by such a plan); and

[(2) the program includes a case review system of the type described in paragraph (5) of such section (covering each such infant and young child who is not otherwise subject to such a system).

[(d) ADMINISTRATION OF GRANT.—

[(1) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees—

[(A) to use the funds provided under this section only for the purposes specified in the application submitted to, and approved by, the Secretary pursuant to subsection (e);

[(B) to establish such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement and accounting of Federal funds paid to the applicant under this section;

[(C) to report to the Secretary annually on the utilization, cost, and outcome of activities conducted, and services furnished, under this section; and

[(D) that if, during the majority of the 180-day period preceding the date of the enactment of this Act, the applicant has carried out any program with respect to the care of abandoned infants and young children, the applicant will expend the grant only for the purpose of significantly expanding, in accordance with subsection (a), activities under such program above the level provided under such program during the majority of such period.

[(2) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a grant under subsection (a) shall be for a period of 3 years, except that the Secretary—

[(A) may terminate the grant if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the grant; and

[(B) shall continue the grant for one additional year if the Secretary determines that the entity has satisfactorily complied with such agreements.

[(e) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

[(1) an application for the grant is submitted to the Secretary;

[(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

[(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

[(f) TECHNICAL ASSISTANCE TO GRANTEEES.—The Secretary may, without charge to any grantee under subsection (a), provide technical assistance (including training) with respect to the planning, development, and operation of projects described in such subsection. The Secretary may provide such technical assistance directly, through contracts, or through grants.

[(g) TECHNICAL ASSISTANCE WITH RESPECT TO PROCESS OF APPLYING FOR GRANT.—The Secretary may provide technical assistance (including training) to public and nonprofit private entities with respect to the process of applying to the Secretary for a grant under subsection (a). The Secretary may provide such technical assistance directly, through contracts, or through grants.

**[SEC. 102. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.]**

[(a) EVALUATIONS OF DEMONSTRATION PROJECTS.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as result of such projects.

[(b) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—

[(1)(A) The Secretary may enter into contracts or cooperative agreements with public or nonprofit private entities for the development and operation of model projects to disseminate the information described in subparagraph (B) to individuals who are disproportionately at risk of dysfunctional behaviors that lead to the abandonment of infants or young children.

[(B) The information referred to in subparagraph (A) is information on the availability to individuals described in such subparagraph, and the families of the individuals, of financial assistance and services under Federal, State, local, and private programs providing health services, mental health services, educational services, housing services, social services, or other appropriate services.

[(2) The Secretary may not provide a contract or cooperative agreement under paragraph (1) to an entity unless—

[(A) the entity has demonstrated expertise in the functions with respect to which such financial assistance is to be provided; and

[(B) the entity agrees that in disseminating information on programs described in such paragraph, the entity will give priority—

[(i) to providing the information to individuals described in such paragraph who—

[(I) engage in the abuse of alcohol or drugs, who are infected with the human immunodeficiency virus, or who have limited proficiency in speaking the English language; or

[(II) have been historically underserved in the provision of the information; and



[(ii) to providing information on programs that are operated in the geographic area in which the individuals involved reside and that will assist in eliminating or reducing the extent of behaviors described in such paragraph.

[(3) In providing contracts and cooperative agreements under paragraph (1), the Secretary may not provide more than 1 such contract or agreement with respect to any geographic area.

[(4) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a contract or cooperative agreement under paragraph (1) shall be for a period of 3 years, except that the Secretary may terminate such financial assistance if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the assistance.

**[(c) STUDY AND REPORT ON NUMBER OF ABANDONED INFANTS AND YOUNG CHILDREN.—**

[(1) The Secretary shall conduct a study for the purpose of determining—

[(A) an estimate of the number of infants and young children abandoned in hospitals in the United States and the number of such infants and young children who are infants and young children described in section 101(b); and

[(B) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for such infants and young children.

[(2) Not later than April 1, 1992, the Secretary shall complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

**[(d) STUDY AND REPORT ON EFFECTIVE CARE METHODS.—**

[(1) The Secretary shall conduct a study for the purpose of determining the most effective methods for responding to the needs of abandoned infants and young children.

[(2) The Secretary shall, not later than April 1, 1991, complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

**[SEC. 103. DEFINITIONS.**

**[For purposes of this title:**

[(1) The terms “abandoned” and “abandonment”, with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

[(2) The term “dangerous drug” means a controlled substance, as defined in section 102 of the Controlled Substances Act.

[(3) The term “natural family” shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals

residing in the household on a continuing basis who are in a care-giving situation with respect to infants and young children covered under this Act.

**[SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

**[(a) IN GENERAL.—**

**[(1)** For the purpose of carrying out this title (other than section 102(b)), there are authorized to be appropriated \$20,000,000 for fiscal year 1992, \$25,000,000 for fiscal year 1993, \$30,000,000 for fiscal year 1994, and \$35,000,000 for fiscal year 1995.

**[(2)(A)** Of the amounts appropriated under paragraph (1) for any fiscal year in excess of the amount appropriated under this subsection for fiscal year 1991, as adjusted in accordance with subparagraph (B), the Secretary shall make available not less than 50 percent for grants under section 101(a) to carry out projects described in paragraph (8) of such section.

**[(B)** For purposes of subparagraph (A), the amount relating to fiscal year 1991 shall be adjusted for a fiscal year to a greater amount to the extent necessary to reflect the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.

**[(3)** Not more than 5 percent of the amounts appropriate under paragraph (1) for any fiscal year may be obligated for carrying out section 102(a).

**[(b) DISSEMINATION OF INFORMATION FOR INDIVIDUALS WITH SPECIAL NEEDS.—**For the purpose of carrying out section 102(b), there is authorized to be appropriated \$5,000,000 for each of the fiscal years 1992 through 1995.

**[(c) ADMINISTRATIVE EXPENSES.—**

**[(1)** For the purpose of the administration of this title by the Secretary, there is authorized to be appropriated for each fiscal year specified in subsection (a)(1) an amount equal to 5 percent of the amount authorized in such subsection to be appropriated for the fiscal year. With respect to the amounts appropriated under such subsection, the preceding sentence may not be construed to prohibit the expenditure of the amounts for the purpose described in such sentence.

**[(2)** The Secretary may not obligate any of the amounts appropriated under paragraph (1) for a fiscal year unless, from the amounts appropriated under subsection (a)(1) for the fiscal year, the Secretary has obligated for the purpose described in such paragraph an amount equal to the amounts obligated by the Secretary for such purpose in fiscal year 1991.

**[(d) AVAILABILITY OF FUNDS.—**Amounts appropriated under this section shall remain available until expended.

## **[TITLE II—MEDICAL COSTS OF TREATMENT WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME**

### **[SEC. 201. STUDY AND REPORT ON ASSISTANCE.**

[(a) STUDY.—The Secretary shall conduct a study for the purpose of—

[(1) determining cost-effective methods for providing assistance to individuals for the medical costs of treatment of conditions arising from infection with the etiologic agent for acquired immune deficiency syndrome, including determining the feasibility of risk-pool health insurance for individuals at risk of such infection;

[(2) determining the extent to which Federal payments under title XIX of the Social Security Act are being expended for medical costs described in paragraph (1); and

[(3) providing an estimate of the extent to which such Federal payments will be expended for such medical costs during the 5-year period beginning on the date of the enactment of this Act.

[(b) REPORT.—The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

## **[TITLE III—GENERAL PROVISIONS**

### **[SEC. 301. DEFINITIONS.**

For purposes of this Act:

[(1) The term “acquired immune deficiency syndrome” includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

[(2) The term “Secretary” means the Secretary of Health and Human Services.]

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## **TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES ACT OF 1986**

### **[TITLE II—TEMPORARY CHILD CARE FOR HANDICAPPED CHILDREN AND CRISIS NURSERIES**

#### **[SEC. 201 SHORT TITLE.**

[This title may be cited as the “Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986”.

#### **[SEC. 202. FINDINGS.**

[The Congress finds that it is necessary to establish demonstration programs of grants to the States to assist private and

public agencies and organizations provide: (A) temporary non-medical child care for children with special needs to alleviate social, emotional, and financial stress among children and families of such children, and (B) crisis nurseries for children who are abused and neglected, at risk of abuse or neglect, or who are in families receiving child protective services.

**[SEC. 203. TEMPORARY CHILD CARE FOR HANDICAPPED AND CHRONICALLY ILL CHILDREN.**

【The Secretary of Health and Human Services shall establish a demonstration program of grants to States to assist private and public agencies and organizations to provide in-home or out-of-home temporary non-medical child care for children with disabilities, and children with chronic or terminal illnesses. Such care shall be provided on a sliding fee scale with hourly and daily rates.

**[SEC. 204. CRISIS NURSERIES.**

【The Secretary of Health and Human Services shall establish a demonstration program of grants to States to assist private and public agencies and organizations to provide crisis nurseries for children who are abused and neglected, are at high risk of abuse and neglect, or who are in families receiving child protective services. Such service shall be provided without fee for a maximum of 30 days in any year. Crisis nurseries shall also provide referral to support services.

**[SEC. 205. ADMINISTRATIVE PROVISIONS.**

**【(a) Applications.—**

【(1) (A) Any State which desires to receive a grant under section 203 or 204 shall submit an application to the Secretary in such form and at such times as the Secretary may require. Such application shall—

【(i) describe the proposed State program, including the services to be provided, the agencies and organizations that will provide the services, and the criteria for selection of children and families for participation in projects under the program;

【(ii) contain an estimate of the cost of developing, implementing, and evaluating the State program;

【(iii) set forth the plan for dissemination of the results of the projects;

【(iv) specify the State agency designated to administer programs and activities assisted under this title and the plans for coordinating interagency support of the program; and

【(v) with respect to State agencies described in subparagraph (B), provide documentation of a commitment by all such agencies to develop a State plan for coordination among the agencies in carrying out programs and activities provided by the State pursuant to a grant under section 203.

【(B) State agencies referred to in subparagraph (A)(v) are State agencies responsible for providing services to children with disabilities or with chronic or terminal illnesses, or responsible for financing services for such children, or both, in-

cluding State agencies responsible for carrying out State programs that—

[(i) receive Federal financial assistance; and

[(ii) relate to social services, maternal and child health, comprehensive health and mental health, medical assistance and infants, or toddlers and families.

[(2) Such application shall contain assurance that—

[(A) not more than 5 percent of funds made available under this title will be used for State administrative costs;

[(B) projects will be of sufficient size, scope, and quality to achieve the objectives of the program;

[(C) in the distribution of funds made available under section 203, a State will give priority consideration to agencies and organizations with experience in working with children with disabilities, with chronically ill children, and with the families of such children, and which serve communities with the greatest need for such services;

[(D) in the distribution of funds made available under section 204, the State will give priority consideration to agencies and organizations with experience in working with abused or neglected children and their families, and with children at high risk of abuse and neglect and their families, and which serve communities which demonstrate the greatest need for such services; and

[(E) Federal funds made available under this title will be so used as to supplement and, to the extent practicable, increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in this title, and in no case supplant such State or local funds.

[(b) Award of Grants.—

[(1) In reviewing applications for grants under this title, the Secretary shall consider, among other factors, the equitable geographical distribution of grants.

[(2) In the award of temporary non-medical child care demonstration grants under section 203, the Secretary shall give a preference to States in which such care is unavailable.

[(3) Of the funds appropriated under section 206, one-half shall be available for grants under section 203 and one-half shall be available for grants under section 204.

[(c) Evaluations.—States receiving grants under this title, shall annually submit a report to the Secretary evaluating funded programs. Such report shall include—

[(1)(A) information concerning costs, the number of participants, impact on family stability, the incidence of abuse and neglect, the types, amounts, and costs of various services provided, demographic data on recipients of services, and such other information as the Secretary may require; and

[(B) with respect to services provided by the States pursuant to section 203, information concerning the number of families receiving services and documentation of parental satisfaction with the services provided;

[(2) a specification of the amount and source of public funds, and of private funds, expended in the State for temporary child care for children with disabilities or with chronic or terminal illnesses; and

[(3) a State strategy for expanding the availability in the State of temporary child care, and other family support, for families of children with disabilities or with chronic or terminal illnesses, which strategy specifies the manner in which the State intends to expend any Federal financial assistance available to the State for such purpose, including any such assistance provided to the State for programs described in section 205(a)(1)(B).

[(d) Definitions.—For the purposes of this title—

[(1) the term “Secretary” means the Secretary of Health and Human Services;

[(2) the term “children with disabilities” has the meaning given such term in section 602(a)(1) of the Individuals with Disabilities Education Act;

[(3) the term “crisis nursery” means a center providing temporary emergency services and care for children;

[(4) the term “non-medical child care” means the provision of care to provide temporary relief for the primary caregiver; and

[(5) the term “State” means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

#### **[SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

[(There are authorized to be appropriated for the purposes of this title such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989, \$20,000,000 for each of the fiscal years 1990 and 1991, and \$20,000,000 for each of the fiscal years 1992 through 1995. Amounts appropriated under the preceding sentence shall remain available until expended.

#### **[SEC. 207. EFFECTIVE DATE.**

[(This title shall take effect October 1, 1986.

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### **STEWART B. McKINNEY HOMELESS ASSISTANCE ACT**

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#### **TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS**

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### **[Subtitle F—Family Support Centers**

#### **[SEC. 771. DEFINITIONS.**

[(As used in this subtitle:

[(1) ADVISORY COUNCIL.—The term “advisory council” means the advisory council established under section 772(e)(2)(K).

[(2) ELIGIBLE ENTITY.—The term “eligible entity” means State or local agencies, a Head Start agency, any community-based organization of demonstrated effectiveness as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, local education agencies, an institution of higher education, a public hospital, a community development corporation, a private industry council as defined under section 102(a) of the Job Training Partnership Act, a community health center, and any other public or private nonprofit agency or organization specializing in delivering social services.

[(3) FAMILY CASE MANAGERS.—The term “family case managers” means advisers operating under the provisions of section 774.

[(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term “governmentally subsidized housing” means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of very low income families or individuals.

[(5) HOMELESS.—The term “homeless” has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

[(6) INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.—The term “intensive and comprehensive supportive services” means—

[(A) in the case of services provided to infants, children and youth, such services that shall be designed to enhance the physical, social, and educational development of such infants and children and that shall include, where appropriate nutritional services, screening and referral services, child care services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness and job training services, education (including basic skills and literacy services), emergency services including special outreach services targeted to homeless and runaway youth, crisis intervention and counseling services, and such other services that the Secretary may deem necessary and appropriate;

[(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child’s healthy development and that shall include, where appropriate, substance abuse education, counseling, referral for treatment, crisis intervention, employment counseling and training as appropriate, life-skills training including personal financial counseling, education including

basic skills and literacy services, parenting classes, training in consumer homemaking, and such other services as the Secretary shall deem necessary and appropriate;

[(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment, counseling and crisis intervention, family advocacy services, and housing assistance activities, housing counseling and eviction or foreclosure prevention assistance and referral to sources of emergency rental or mortgage assistance payments and home energy assistance, and other services as appropriate.

[(7) LOW INCOME.—The term “low income” when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

[(8) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

[(9) VERY LOW INCOME.—The term “very low income” when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

#### **[SEC. 772. GENERAL GRANTS FOR THE PROVISION OF SERVICES.**

[(a) AUTHORITY.—The Secretary is authorized to make not more than 30 grants to eligible entities in rural, urban and suburban areas to pay the cost of demonstration programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, and educational development of low-income individuals and families, especially those individuals in very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless. Such grants shall be of sufficient size, scope, and quality to be effective, and shall be distributed to various entities including those in or near public housing developments, and in low income areas both urban and nonurban.

[(b) GATEWAY PROGRAMS.—The Secretary shall make available not more than 5 demonstration grants in each fiscal year for Gateway programs in accordance with section 775.

[(c) AGREEMENTS WITH ELIGIBLE ENTITIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible entities to carry out the provisions of this section.



[(d) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

[(1) the capacity of the eligible entity to administer the comprehensive program for which assistance is sought;

[(2) the proximity of the entities and facilities associated with the program to the low-income families to be served by the program or the ability of the entity to provide mobile or off-site services;

[(3) the ability of the eligible entity to coordinate and integrate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, housing and energy assistance, and other relevant services), with public or private non-profit agencies and organizations that have a demonstrated record of effectiveness in providing assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

[(4) fiscal and administrative management of the eligible entity;

[(5) the involvement of project participants and community representatives in the planning and operation of the program to the extent practicable; and

[(6) the availability and proximity of comparable services provided by Community Action Agencies unless the Community Action Agency is the applicant and intends to expand existing services.

[(e) REQUIREMENTS.—

[(1) IN GENERAL.—Each eligible entity desiring to receive a grant under this section shall—

[(A) have demonstrated effectiveness in providing or arranging for the provision of services such as those required under this section;

[(B) to the maximum extent practicable, expand, coordinate, integrate, or contract with existing service providers, and avail itself of other resource and reimbursement mechanisms that may be used to provide services; and

[(C) submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

[(2) APPLICATION.—Each application submitted under paragraph (1)(C) shall—

[(A) identify the population and geographic location to be served by the program;

[(B) provide assurances that services are closely related to the identifiable needs of the target population;

[(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

[(D) identify the referral providers, agencies, and organizations that the program will use;

【(E) describe the method of furnishing services at off-site locations, if appropriate;

【(F) describe the manner in which the services offered will be accessed through existing program providers to the extent that they are located in the immediate vicinity of the target population, or will contract with such providers for community-based services within the community to be served, and that funds provided under this section will be utilized to create new services only to the extent that no other funds can be obtained to fulfill the purpose.

【(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, housing and energy assistance, and income maintenance services;

【(H) describe the collection and provision of data on groups of individuals and geographic areas to be served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and natures of conditions and needs to be identified and assisted, and such other information as the Secretary requires;

【(I) describe the manner in which the applicant will implement the requirement of section 773;

【(J) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible entity, consisting of not more than 15 members that shall include—

【(i) participants in the programs, including parents;

【(ii) representatives of local private industry;

【(iii) individuals with expertise in the services the program intends to offer;

【(iv) representatives of the community in which the program will be located;

【(v) representatives of local government social service providers;

【(vi) representatives of local law enforcement agencies;

【(vii) representatives of the local public housing agency, where appropriate; and

【(viii) representatives of local education providers;

【(K) describe plans for evaluating the impact of the program;

【(L) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

【(M) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

【(N) contain an assurance that amounts received under a grant awarded under this section shall be used to

supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

**[(f) ADMINISTRATIVE PROVISIONS.—**

**[(1) ADMINISTRATIVE COSTS.—**Two percent of the amounts appropriated under this title may be used by the Secretary to administer and evaluate the program established under this title and to provide technical assistance to entities for the development and submission of applications for grants under this section.

**[(2) LIMITATION.—**Not more than 30 grants may be made under this subtitle.

**[(3) AMOUNT OF GRANTS.—**No grant made under this subtitle may exceed \$2,500,000 per year nor more than a total of \$4,000,000 for 2 years. Funds received under such grants shall remain available until expended.

**[(g) FAMILY SUPPORT CENTERS.—**Each program that receives assistance under this section shall establish one or more family support centers that operate—

**[(1)** in or near the immediate vicinity of governmentally subsidized housing;

**[(2)** in urban poverty areas; or

**[(3)** in non-urban poverty areas.

Such centers shall be the primary location for the administration of the programs and the provision of services under this title.

**[SEC. 773. TRAINING AND RETENTION.**

**[The Secretary shall require that entities that receive a grant under section 772 use not more than 7 percent of such grant to improve the retention and effectiveness of staff and volunteers.**

**[SEC. 774. FAMILY CASE MANAGERS.**

**[(a) REQUIREMENT.—**Each entity that receives a grant under section 772 shall employ, subject to subsection (e), an appropriate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

**[(b) NEEDS ASSESSMENT.—**Each low-income family that desires to receive services from a program that receives assistance under this subtitle shall be assessed by a family case manager on such family's initial visit to such program as to their need for services.

**[(c) CONTINUING FUNCTIONS.—**Family case managers shall formulate a service plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and referral services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities, as appropriate.

**[(d) LIMITATION.—**Each family case manager shall have a caseload that is of a sufficiently small size so as to permit such manager to effectively manage the delivery of comprehensive services to those families assigned to such manager.

**[SEC. 775. GATEWAY PROGRAMS.**

**[(a) IN GENERAL.—**The Secretary shall use amounts made available in accordance with section 772(b) to make not more than

5 demonstration grants to local education agencies who, in consultation with the local public housing authority and private industry council, agree to provide on-site education, training and necessary support services to economically disadvantaged residents of public housing.

[(b) SELECTION OF GRANT RECIPIENTS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall select a local education agency to receive a grant under subsection (a) if such agency has cooperated with the local public housing authority in order to meet the following requirements:

[(1) The local education agency shall demonstrate to the Secretary that training and ancillary support services will be accessed through existing program providers to the extent that they are located in the immediate vicinity of the public housing development, or will contract with such providers for on-site service delivery, and that funds provided under this section will be utilized to purchase such services only to the extent that no other funds can be obtained to fulfill the purpose.

[(2) The public housing agency shall agree to make available suitable facilities in the public housing development for the provision of education, training and support services under this section.

[(3) The local education agency shall demonstrate that the recipients of service have been recruited with the assistance of the public housing authority and are eligible individuals in accordance with the priorities established in subsection (c).

[(4) The local education agency shall demonstrate the ability to coordinate the services provided in this section with other services provided, with the public housing development and private industry council as well as with other public and private agencies and community-based organizations of demonstrated effectiveness providing similar and ancillary services to the target population.

[(5) The local education agency shall demonstrate that they have, to the fullest extent practicable, attempted to employ residents of the public housing development to carry out the purposes of this section whenever qualified residents are available.

[(c) INDIVIDUALS ELIGIBLE FOR SERVICES.—Local education agencies receiving grants under this section shall target participation in the training and services provided under such grants to individuals who—

[(1) reside in public housing;

[(2) are economically disadvantaged; and

[(3) have encountered barriers to employment because of basic skills deficiency including not having a high school diploma, GED, or the equivalent.

[(d) PRIORITY.—Local education agencies providing services under this section shall give priority to single heads of households with young dependent children.

[(e) MANDATORY SERVICES.—Any local education agency that receives a grant under this section shall establish a Gateway program to provide—

[(1) outreach and information services designed to make eligible individuals aware of available services;

[(2) literacy and bilingual education services, where appropriate;

[(3) remedial education and basic skills training;

[(4) employment training and personal management skill development or referrals for such services; and

[(5) child care or dependent care for dependents of eligible individuals during those times, including afternoons and evenings, when training services are being provided.

To the extent practicable, child care or dependent care services shall be designed to employ public housing residents after appropriate training.

[(f) PERMISSIVE SERVICES.—Local education agencies receiving grants under this section may make available, as part of their Gateway programs—

[(1) pre-employment skills training;

[(2) employment counseling and application assistance;

[(3) job development services;

[(4) job training;

[(5) Federal employment-related activity services;

[(6) completion of high school or GED program services;

[(7) transitional assistance, including child care for up to 6 months to enable such individual to successfully secure unsubsidized employment;

[(8) substance abuse prevention and education; and

[(9) other support services that the Secretary deems to be appropriate.

#### **[SEC. 776. EVALUATION.**

[(a) IN GENERAL.—The Secretary shall contract for an independent evaluation of the programs and entities that receive assistance under this title. Such evaluation shall be complete not later than the date that is 15 months after the date on which the first grants are awarded under this title.

[(b) MATTER TO BE EVALUATED.—The evaluation conducted under subsection (a) shall examine the degree to which the programs receiving assistance under this title have fulfilled the objectives included in the application in accordance with section 722(e)(2) in—

[(1) enhancing the living conditions in low income housing and in neighborhoods;

[(2) improving the physical, social and educational development of low income children and families served by the program;

[(3) achieving progress towards increased potential for independence and self-sufficiency among families served by the program;

[(4) the degree to which the provision of services is affected by caseload size;

[(5) promoting increases in literacy levels and basic employment skills among residents of public housing developments served by grants under section 776; and

[(6) such other factors that the Secretary may reasonably require.

[(c) INFORMATION.—Each eligible entity receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

[(d) RESULTS.—The results of such evaluation shall be provided by the Secretary to the eligible entities conducting the programs to enable such entities to improve such programs.

**[SEC. 777. REPORT.**

Not later than July 1, 1992, the Secretary shall prepare and submit, to the Committee on Education and Labor, of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report—

[(1) concerning the evaluation required under section 776;

[(2) providing recommendations for replicating grant programs, including identifying the geographic and demographic characteristics of localities where this service coordination and delivery system may prove effective;

[(3) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle; and

[(4) describing the degree to which entities are coordinating with other existing programs.

**[SEC. 778. CONSTRUCTION.**

Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

**[SEC. 779. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subtitle, \$50,000,000 for fiscal year 1991, \$55,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal year 1993.]

## **CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990**

### **Subchapter C—Child Care and Development Block Grant**

**SEC. 658A. SHORT TITLE AND GOALS.**

(a) *SHORT TITLE.*—This subchapter may be cited as the “Child Care and Development Block Grant Act of 1990”.

(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. 658B. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subchapter, \$750,000,000 for fiscal year 1991, \$825,000,000 for fiscal year 1992, \$925,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.]

**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.

\* \* \* \* \*

**SEC. 658D. LEAD AGENCY.**

(a) \* \* \*

(b) DUTIES.—

(1) IN GENERAL.—The lead agency shall—

(A) administer, directly or through other [State] governmental or nongovernmental agencies, the financial assistance received under this subchapter by the State;

(B) develop the State plan to be submitted to the Secretary under section 658E(a);

(C) in conjunction with the development of the State plan as required under subparagraph (B), hold at least one hearing in the State *with sufficient time and Statewide distribution of the notice of such hearing*, to provide to the public an opportunity to comment on the provision of child care services under the State plan; and

(D) coordinate the provision of services under this subchapter with other Federal, State and local child care and early childhood development programs.

(2) DEVELOPMENT OF PLAN.—In the development of the State plan described in paragraph (1)(B), the lead agency shall consult with appropriate representatives of units of general purpose local government. [Such consultations may include consideration of local child care needs and resources, the effectiveness of existing child care and early childhood development services, and the methods by which funds made available under this subchapter can be used to effectively address local shortages.]

**SEC. 658E. APPLICATION AND PLAN.**

(a) \* \* \*

(b) PERIOD COVERED BY PLAN.—The State plan contained in the application under subsection (a) shall be designed to be [implemented—

[(1) during a 3-year period for the initial State plan; and

[(2)] *implemented* during a 2-year period [for subsequent State plans].

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The State plan shall identify the lead agency designated under section 658D.

(2) POLICIES AND PROCEDURES.—The State plan shall:

(A) PARENTAL CHOICE OF PROVIDERS.—Provide assurances that—

(i) the parent or parents of each eligible child within the State who receives or is offered child care services for which financial assistance is provided under this subchapter~~], other than through assistance provided under paragraph (3)(C),]~~ are given the option either—

(I) to enroll such child with a child care provider that has a grant or contract for the provision of such services; or

(II) to receive a child care certificate as defined in section 658P(2);

(ii) in cases in which the parent selects the option described in clause (i)(I), the child will be enrolled with the eligible provider selected by the parent to the maximum extent practicable; and

(iii) child care certificates offered to parents selecting the option described in clause (i)(II) shall be of a value commensurate with the subsidy value of child care services provided under the option described in clause (i)(I);

~~except that nothing in this subparagraph shall require a State to have a child care certificate program in operation prior to October 1, 1992] and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph.~~

(B) UNLIMITED PARENTAL ACCESS.—~~Provide assurances] Certify~~ that procedures are in effect within the State to ensure that child care providers who provide services for which assistance is made available under this subchapter afford parents unlimited access to their children and to the providers caring for their children, during the normal hours of operation of such providers and whenever such children are in the care of such providers *and provide a detailed description of such procedures.*

(C) PARENTAL COMPLAINTS.—~~Provide assurances] Certify~~ that the State maintains a record of substantiated parental complaints and makes information regarding such parental complaints available to the public on request *and provide a detailed description of how such record is maintained and is made available.*

~~[(D) CONSUMER EDUCATION.—Provide assurances that consumer education information will be made available to parents and the general public within the State concerning licensing and regulatory requirements, complaint procedures, and policies and practices relative to child care services within the State.~~

~~[(E) COMPLIANCE WITH STATE AND LOCAL REGULATORY REQUIREMENTS.—Provide assurances that—~~

~~[(i) all providers of child care services within the State for which assistance is provided under this subchapter comply with all licensing or regulatory re-~~



quirements (including registration requirements) applicable under State and local law; and

[(ii) providers within the State that are not required to be licensed or regulated under State or local law are required to be registered with the State prior to payment being made under this subchapter, in accordance with procedures designed to facilitate appropriate payment to such providers, and to permit the State to furnish information to such providers, including information on the availability of health and safety training, technical assistance, and any relevant information pertaining to regulatory requirements in the State, and that such providers shall be permitted to register with the State after selection by the parents of eligible children and before such payment is made.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards and licensing or regulatory requirements on child care providers within the State that provide services for which assistance is provided under this subchapter than the standards or requirements imposed on other child care providers in the State.】

(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.*

(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 organization receiving assistance under this subchapter.*

\* \* \* \* \*

(G) *COMPLIANCE WITH STATE AND LOCAL HEALTH AND SAFETY REQUIREMENTS.*—【Provide assurances】*Certify that procedures are in effect to ensure that child care providers within the State that provide services for which assistance is provided under this subchapter comply with all applicable State or local health and safety requirements as described in subparagraph (F).*

【(H) REDUCTION IN STANDARDS.—Provide assurances that if the State reduces the level of standards applicable to child care services provided in the State on the date of enactment of this subchapter, the State shall inform the Secretary of the rationale for such reduction in the annual report of the State described in section 658K.

【(I) REVIEW OF STATE LICENSING AND REGULATORY REQUIREMENTS.—Provide assurances that not later than 18 months after the date of the submission of the application under section 658E, the State will complete a full review of the law applicable to, and the licensing and regulatory requirements and policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on the date of the enactment of this subchapter.

【(J) SUPPLEMENTATION.—Provide assurances that funds received under this subchapter by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for the support of child care services and related programs in the State.】

(H) *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.*

(3) USE OF BLOCK GRANT FUNDS.—

(A) GENERAL REQUIREMENT.—The State plan shall provide that the State will use the amounts provided to the State for each fiscal year under this subchapter as required under subparagraphs 【(B) and (C)】 *(B) through (D).*

(B) CHILD CARE SERVICES【.—Subject to the reservation contained in subparagraph (C), the】 *AND RELATED ACTIVITIES.—The State shall use amounts provided to the State for each fiscal year under this subchapter 【for—*

【(i) child care services, that meet the requirements of this subchapter, that are provided to eligible children in the State on a sliding fee scale basis using funding methods provided for in section 658E(c)(2)(A)】 *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), with priority being given for services provided to children of families with very low family incomes (taking into consideration family size) and to children with special needs【; and】.*

【(ii) activities designed to improve the availability and quality of child care.】

[(C) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE AND TO INCREASE THE AVAILABILITY OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE SERVICES.—The State shall reserve 25 percent of the amounts provided to the State for each fiscal year under this subchapter to carry out activities designed to improve the quality of child care (as described in section 658G) and to provide before- and after-school and early childhood development services (as described in section 658H).]

(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.*

(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)(H).*

(4) *PAYMENT RATES.*—

(A) *IN GENERAL.*—*The State plan shall [provide assurances] certify that payment rates for the provision of child care services for which assistance is provided under this subchapter are sufficient to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not eligible to receive assistance under this subchapter or for child care assistance under any other Federal or State programs and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access. [Such payment rates shall take into account the variations in the costs of providing child care in different settings and to children of different age groups, and the additional costs of providing child care for children with special needs.]*

\* \* \* \* \*

#### SEC. 658F. LIMITATIONS ON STATE ALLOTMENTS.

(a) \* \* \*

(b) *CONSTRUCTION OF FACILITIES.*—

(1) *IN GENERAL.*—*[No] Except as provided for in section 658O(c)(6), no funds made available under this subchapter shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.*

\* \* \* \* \*

**[SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.**

【A State that receives financial assistance under this subchapter shall use not less than 20 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year for one or more of the following:

【(1) RESOURCE AND REFERRAL PROGRAMS.—Operating directly or providing financial assistance to private nonprofit organizations or public organizations (including units of general purpose local government) for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

【(2) GRANTS OR LOANS TO ASSIST IN MEETING STATE AND LOCAL STANDARDS.—Making grants or providing loans to child care providers to assist such providers in meeting applicable State and local child care standards.

【(3) MONITORING OF COMPLIANCE WITH LICENSING AND REGULATORY REQUIREMENTS.—Improving the monitoring of compliance with, and enforcement of, State and local licensing and regulatory requirements (including registration requirements).

【(4) TRAINING.—Providing training and technical assistance in areas appropriate to the provision of child care services, such as training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the care of children with special needs.

【(5) COMPENSATION.—Improving salaries and other compensation paid to full- and part-time staff who provide child care services for which assistance is provided under this subchapter.

**[SEC. 658H. EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL SERVICES.**

【(a) IN GENERAL.—A State that receives financial assistance under this subchapter shall use not less than 75 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year to establish or expand and conduct, through the provision of grants or contracts, early childhood development or before- and after-school child care programs, or both.

【(b) PROGRAM DESCRIPTION.—Programs that receive assistance under this section shall—

【(1) in the case of early childhood development programs, consist of services that are not intended to serve as a substitute for a compulsory academic programs but that are intended to provide an environment that enhances the educational, social, cultural, emotional, and recreational development of children; and

【(2) in the case of before- and after-school child care programs—

【(A) be provided Monday through Friday, including school holidays and vacation periods other than legal public holidays, to children attending early childhood development programs, kindergarten, or elementary or secondary school classes during such times of the day and on such days that regular instructional services are not in session; and

[(B) not be intended to extend or replace the regular academic program.

[(c) PRIORITY FOR ASSISTANCE.—In awarding grants and contracts under this section, the State shall give the highest priority to geographic areas within the State that are eligible to receive grants under section 1006 of the Elementary and Secondary Education Act of 1965, and shall then give priority to—

[(1) any other areas with concentrations of poverty; and

[(2) any areas with very high or very low population densities.]

**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 4 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. 658I. ADMINISTRATION AND ENFORCEMENT.**

(a) \* \* \*

(b) ENFORCEMENT.—

(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E(c) for the State[, and shall have the power to terminate payments to the State in accordance with paragraph (2)].

(2) NONCOMPLIANCE.—

(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under section 658E(c) for the State; or

(ii) in the operation of any program for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the [finding and that no further payments may be made to such State under this subchapter (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.] *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. 658J. PAYMENTS.**

(a) \* \* \*

\* \* \* \* \*

(c) **SPENDING OF FUNDS BY STATE.**—Payments to a State from the allotment under section 658O for any fiscal year may be [expended] *obligated* by the State in that fiscal year or in the succeeding 3 fiscal years.

**SEC. 658K. [ANNUAL REPORT] REPORTS AND AUDITS.**

[(a) **ANNUAL REPORT.**—Not later than December 31, 1992, and annually thereafter, a State that receives assistance under this subchapter shall prepare and submit to the Secretary a report—

[(1) specifying the uses for which the State expended funds specified under paragraph (3) of section 658E(c) and the amount of funds expended for such uses;

[(2) containing available data on the manner in which the child care needs of families in the State are being fulfilled, including information concerning—

[(A) the number of children being assisted with funds provided under this subchapter, and under other Federal child care and pre-school programs;

[(B) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

[(C) salaries and other compensation paid to full- and part-time staff who provide child care services; and

[(D) activities in the State to encourage public-private partnerships that promote business involvement in meeting child care needs;

[(3) describing the extent to which the affordability and availability of child care services has increased;

[(4) if applicable, describing, in either the first or second such report, the findings of the review of State licensing and regulatory requirements and policies described in section 658E(c), including a description of actions taken by the State in response to such reviews;

[(5) containing an explanation of any State action, in accordance with section 658E, to reduce the level of child care standards in the State, if applicable; and

[(6) describing the standards and health and safety requirements applicable to child care providers in the State, including a description of State efforts to improve the quality of child care;

during the period for which such report is required to be submitted.]

(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.

## (b) AUDITS.—

(1) REQUIREMENT.—A State shall, after the close of each program period covered by [a] *an* application approved under section 658E(d) audit its expenditures during such program period from amounts received under this subchapter.

(2) INDEPENDENT AUDITOR.—Audits under this subsection shall be conducted by an entity that is independent of [any agency administering activities that receive] *the State that receives* assistance under this subchapter and be in accordance with generally accepted auditing principles.

(3) SUBMISSION.—Not later than 30 days after the completion of an audit under this subsection, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

(4) REPAYMENT OF AMOUNTS.—Each State shall repay to the United States any amounts determined through an audit under this subsection not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may be [entitled] *entitled* under this subchapter.

**SEC. 658L. REPORT BY SECRETARY.**

Not later than July 31, [1993] *1997*, and [annually] *biennially* thereafter, the Secretary shall prepare and submit to the Committee on [Education and Labor] *Economic and Educational Opportunities* of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains a summary and analysis of the data and information provided to the Secretary in the State reports submitted under section 658K. Such report shall include an assessment, and where appropriate, recommendations for the Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

\* \* \* \* \*

**SEC. 658O. AMOUNTS RESERVED; ALLOTMENTS.**

## (a) AMOUNTS RESERVED.—

(1) TERRITORIES AND [POSSESSIONS] *POSSESSIONS*.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, *and* the Commonwealth of the Northern Mariana Islands[, and the Trust Territory of the Pacific Islands] to be allotted in accordance with their respective needs.

(2) INDIANS TRIBES.—The Secretary shall reserve not more than [3] *1* percent of the amount appropriated under section 658B in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

\* \* \* \* \*

## (c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

## (1) \* \* \*

\* \* \* \* \*



(5) DUAL ELIGIBILITY OF INDIAN CHILDREN.—The awarding of a grant or contract under this section for programs or activities to be conducted in a State or States shall not affect the eligibility of any Indian child to receive services provided or to participate in programs and activities carried **[our]** out under a grant to the State or States under this subchapter.

(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.

\* \* \* \* \*

(e) REALLOTMENTS.—

(1) \* \* \*

\* \* \* \* \*

(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. 658P. DEFINITIONS.

As used in this subchapter:

(1) CAREGIVER.—The term “caregiver” means an individual who provides a service directly to an eligible child on a person-to-person basis.

(2) CHILD CARE CERTIFICATE.—The term “child care certificate” means a certificate (that may be a check or other dis-

bursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services *or as a deposit for child care services if such a deposit is required of other children being cared for by the provider*. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

[(3) ELEMENTARY SCHOOL.—The term “elementary school” means a day or residential school that provides elementary education, as determined under State law.]

(4) ELIGIBLE CHILD.—The term “eligible child” means an individual—

(A) who is less than 13 years of age;

(B) whose family income does not exceed [75] 85 percent of the State median income for a family of the same size; and

\* \* \* \* \*

(5) ELIGIBLE CHILD CARE PROVIDER.—The term “eligible child care provider” means—

(A) \* \* \*

(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, *great grandchild*, *sibling (if such provider lives in a separate residence)*, niece, or nephew of such provider, if such provider [is registered and] complies with any [State] *applicable* requirements that govern child care provided by the relative involved.

\* \* \* \* \*

[(10) SECONDARY SCHOOL.—The term “secondary school” means a day or residential school which provides secondary education, as determined under State law.]

\* \* \* \* \*

(13) STATE.—The term “State” means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, *or the Commonwealth of the Northern Mariana Islands*[, and the Trust Territory of the Pacific Islands].

(14) TRIBAL ORGANIZATION.—[The term]

(A) *IN GENERAL*.—The term “tribal organization” has the meaning given it in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

(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.*

\* \* \* \* \*

## HUMAN SERVICES REAUTHORIZATION ACT OF 1986

\* \* \* \* \*

### [TITLE VI—CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE PROGRAM

#### [SEC. 601. SHORT TITLE.

[This title may be cited as the “Child Development Associate Scholarship Assistance Act of 1985”.

#### [SEC. 602. GRANTS AUTHORIZED.

[The Secretary is authorized to make a grant for any fiscal year to any State receiving a grant under title XX of the Social Security Act for such fiscal year to enable such State to award scholarships to eligible individuals within the State who are candidates for the Child Development Associate credential.

#### [SEC. 603. APPLICATIONS.

[(a) APPLICATION REQUIRED.—A State desiring to participate in the grant program established by this title shall submit an application to the Secretary in such form as the Secretary may require.

[(b) CONTENTS OF APPLICATIONS.—A State’s application shall contain appropriate assurances that—

[(1) scholarship assistance made available with funds provided under this title will be awarded—

[(A) only to eligible individuals;

[(B) on the basis of the financial need of such individuals; and

[(C) in amounts sufficient to cover the cost of application, assessment, and credentialing (including, at the option of the State, any training necessary for credentialing) for the Child Development Associate credential for such individuals;

[(2) not more than 35 percent of the funds received under this title by a State may be used to provide scholarship assistance under paragraph (1) to cover the cost of training described in paragraph (1)(C); and

[(3) not more than 10 percent of the funds received by the State under this title will be used for the costs of administering the program established in such State to award such assistance.

[(c) EQUITABLE DISTRIBUTION.—In making grants under this title, the Secretary shall—

[(1) distribute such grants equitably among States; and

[(2) ensure that the needs of rural and urban areas are appropriately addressed.

#### [SEC. 604. DEFINITIONS.

[For purposes of this title—

[(1) the term “eligible individual” means a candidate for the Child Development Associate credential whose income does not exceed the 130 percent of the lower living standard income level, by more than 50 percent;

[(2) the term “lower living standard income level” means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor;

[(3) the term “Secretary” means the Secretary of Health and Human Services; and

[(4) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau.

**[SEC. 605. ADMINISTRATIVE PROVISIONS.]**

[(a) REPORTING.—Each State receiving grants under this title shall annually submit to the Secretary information on the number of eligible individuals assisted under the grant program, and their positions and salaries before and after receiving the Child Development Associate credential.

[(b) PAYMENTS.—Payments pursuant to grants made under this title may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

**[SEC. 606. AUTHORIZATION OF APPROPRIATIONS.]**

[There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1995.]

\* \* \* \* \*

**OMNIBUS BUDGET RECONCILIATION ACT OF 1981**

\* \* \* \* \*

**TITLE VI—HUMAN SERVICES PROGRAMS**

Subtitle A—Authorizations Savings for Fiscal Years 1982, 1983, and 1984

\* \* \* \* \*

**CHAPTER 8—COMMUNITY SERVICES PROGRAMS**

\* \* \* \* \*

**[Subchapter E—Grants to States for Planning and Development of Dependent Care Programs and for Other Purposes]**

**[AUTHORIZATION OF APPROPRIATIONS]**

**[SEC. 670A.** For the purpose of making allotments to States to carry out the activities described in section 670D, there is authorized to be appropriated \$13,000,000 for fiscal year 1995.

# 【ALLOTMENTS

【SEC. 670B. (a) From the amounts appropriated under section 6701A for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated under such section for such fiscal year as the population of the State bears to the population of all States, except that no State may receive less than \$50,000 in each fiscal year.

【(b) For the purpose of the exception contained in subsection (a), the term “State” does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

# 【PAYMENTS UNDER ALLOTMENTS TO STATES

【SEC. 670C. The Secretary shall make payment, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under section 670B from amounts appropriated under section 670A.

# 【USE OF ALLOTMENTS

【SEC. 670D. (a)(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670C from its allotment under section 670B may be used for the planning, development, establishment, operation, expansion, or improvement by the States, directly or by grant or contract with public or private entities, of State and local resource and referral systems to provide information concerning the availability, types, costs, and locations of dependent care services. The information provided by any such system may include—

【(A) the types of dependent care services available, including services provided by individual homes, religious organizations, community organizations, employers, private industry, and public and private institutions;

【(B) the cost of available dependent care services;

【(C) the locations in which dependent care services are provided;

【(D) the forms of transportation available to such locations;

【(E) the hours during which such dependent care services are available;

【(F) the dependents eligible to enroll for such dependent care services; and

【(G) any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a State under this subchapter.

【(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

【(A) provide assurances that no information will be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided; and

【(B) provide assurances that the information provided will be the latest information available and will be kept up to date.

[(b)(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670C from its allotment under section 670B may be used for the planning, development, establishment, operation, expansion, or improvement by the States, directly, or by grant or contract, with public agencies or private nonprofit organizations of programs to furnish school-age child care services before and after school. Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.

[(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

[(A) provide assurances, in the case of an applicant that is not a State or local educational agency, that the applicant has or will enter into an agreement with the State or local educational agency, institution of higher education or community center containing provisions for—

[(i) the use of facilities for the provision of before or after school child care services (including such use during holidays and vacation periods),

[(ii) the restrictions, if any, on the use of such space, and

[(iii) the times when the space will be available for the use of the applicant;

[(B) provide an estimate of the costs of the establishment of the child care service program in the facilities;

[(C) provide assurances that the parents of school-age children will be involved in the development and implementation of the program for which assistance is sought under this Act;

[(D) provide assurances that the applicant is able and willing to seek to enroll racially, ethnically, and economically diverse school-age children, as well as handicapped school-age children, in the child care service program for which assistance is sought under this Act;

[(E) provide assurances that the child care program is in compliance with State and local child care licensing laws and regulations governing day care services for school-age children to the extent that such regulations are appropriate to the age group served; and

[(F) provide such other assurance as the chief executive officer of the State may reasonably require to carry out this Act.

[(c)(1) Except as provided in paragraph (2), of the allotment to each State in each fiscal year—

[(A) 40 percent shall be available for the activities described in subsection (a); and

[(B) 60 percent shall be available for the activities described in subsection (b).

[(2) For any fiscal year the Secretary may waive the percentage requirements specified in paragraph (1) on the request of a State if such State demonstrates to the satisfaction of the Secretary—

[(A) that the amount of funds available as a result of one of such percentage requirements is not needed in such fiscal

year for the activities for which such amount is so made available; and

[(B) the adequacy of the alternative percentages, relative to need, the State specifies the State will apply with respect to all of the activities referred to in paragraph (1) if such waiver is granted.

[(d) A State may not use amounts paid to it under this subchapter to—

[(1) make cash payments to intended recipient of dependent care services including child care services;

[(2) pay for construction or renovation; or

[(3) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

[(e)(1) The Federal share of any project supported under this subchapter shall be not more than 75 percent.

[(2) Not more than 10 percent of the allotment of each State under this subchapter may be available for the cost of administration.

[(f) Project supported under this section to plan, develop, establish, expand, operate, or improve a State or local resource and referral system or before or after school child care program shall not duplicate any services which are provided before the date of the enactment of this subchapter, by the State or locality which will be served by such system.

[(g) The Secretary may provide technical assistance to States in planning and carrying out activities under this subchapter.

#### [APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

[SEC. 670E. (a)(1) In order to receive an allotment under section 670B, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

[(2) Each application required under paragraph (1) for an allotment under section 670B shall contain assurances that the State will meet the requirements of subsection (b).

[(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall—

[(1) certify that the State agrees to use the funds allotted to it under section 670B in accordance with the requirements of this subchapter; and

[(2) certify that the State agrees that Federal funds made available under section 670C for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds. The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

[(c)(1) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 670C, including information on the

programs and activities to be supported. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) until September 30, 1991, as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

[(2) The chief executive officer of each State shall include in such a description of—

[(A) the number of children who participated in before and after school child care programs assisted under this subchapter;

[(B) the characteristics of the children so served including age levels, handicapped condition, income level of families in such programs;

[(C) the salary level and benefits paid to employees in such child care programs; and

[(D) the number of clients served in resource and referral systems assisted under this subchapter, and the types of assistance they requested.

[(d) Except where inconsistent with the provisions of this subchapter, the provisions of section 1903(b), paragraphs (1) through (5) of section 1906(a), and sections 1906(b), 1907, 1908, and 1909 of the Public Health Service Act shall apply to this subchapter in the same manner as such provisions apply to part A of title XIX of such Act.

#### REPORT

[SEC. 670F. Within three years after the date of enactment of this subchapter, the Secretary shall prepare and transmit to the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor a report concerning the activities conducted by the States with amounts provided under this subchapter.

#### DEFINITIONS

[SEC. 670G. For purposes of this subchapter—

[(1) the term “community center” means facilities operated by nonprofit community-based organizations for the provision of recreational, social, or educational services to the general public;

[(2) the term “dependent” means—

[(A) an individual who has not attained the age of 17 years;

[(B) an individual who has attained the age of 55 years; or

[(C) an individual with a developmental disability;

[(3) the term “developmental disability” has the same meaning as in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act;



[(4) the term “equipment” has the same meaning given that term by section 198(a)(8) of the Elementary and Secondary Education Act of 1965;

[(5) the term “institution of higher education” has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

[(6) the term “local educational agency” has the same meaning given that term under section 14101 of the Elementary and Secondary Education Act of 1965 of the Elementary and Secondary Education Act of 1965;

[(7) the term “school-age children” means children aged five through thirteen, except that in any State in which by State law children at an earlier age are provided free public education, the age provided in State law shall be substituted for age five;

[(8) the term “school facilities” means classrooms and related facilities used for the provision of education;

[(9) the term “Secretary” means the Secretary of Health and Human Services;

[(10) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, and the Commonwealth of the Northern Mariana Islands; and

[(11) the term “State educational agency” has the meaning given that term under section 14101 of the Elementary and Secondary Education Act of 1965.

#### 【SHORT TITLE

【SEC. 670H. This subchapter may be cited as the “State Dependent Care Development Grants Act”.】

\* \* \* \* \*

## ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

\* \* \* \* \*

## TITLE X—PROGRAMS OF NATIONAL SIGNIFICANCE

\* \* \* \* \*

### PART D—ARTS IN EDUCATION

\* \* \* \* \*

### Subpart 2—Cultural Partnerships for At-Risk Children and Youth

\* \* \* \* \*

**SEC. 10413. AUTHORIZED ACTIVITIES.**

(a) IN GENERAL.—Grants awarded under this subpart may be used—

(1) \* \* \*

\* \* \* \* \*

[(4) to provide child care for children of at-risk students who would not otherwise be able to participate in the program;]

\* \* \* \* \*

## PART I—21ST CENTURY COMMUNITY LEARNING CENTERS

\* \* \* \* \*

**SEC. 10963. URBAN SCHOOL GRANTS.**

(a) \* \* \*

(b) AUTHORIZED ACTIVITIES.—Funds under this section may be used to—

(1) \* \* \*

(2) ensure the readiness of all urban public school children for school, such as—

(A) \* \* \*

\* \* \* \* \*

[(G) establishment of comprehensive child care centers in public secondary schools for students who are parents and their children; and]

\* \* \* \* \*

**SEC. 10974. USES OF FUNDS.**

(a) IN GENERAL.—Grant funds made available under section 10973 may be used by rural eligible local educational agencies to meet the National Education Goals through programs designed to—

(1) \* \* \*

\* \* \* \* \*

(6) ensure the readiness of all rural children for school, such as—

(A) \* \* \*

\* \* \* \* \*

[(G) establishment of comprehensive child care centers in public secondary schools for student parents and their children; and]

\* \* \* \* \*

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## SECTION 9205 OF THE NATIVE HAWAIIAN EDUCATION ACT

**[SEC. 9205. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.**

[(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations

or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to expand the operation of Family-Based Education Centers throughout the Hawaiian Islands. The programs of such centers may be conducted in the Hawaiian language, the English language, or a combination thereof, and shall include—

[(1) parent-infant programs for prenatal through three-year-olds;

[(2) preschool programs for four- and five-year-olds;

[(3) continued research and development; and

[(4) a long-term followup and assessment program, which may include educational support services for Native Hawaiian language immersion programs or transition to English speaking programs.

[(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

[(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the centers described in subsection (a), there are authorized to be appropriated \$6,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.]

## NATIONAL SCHOOL LUNCH ACT

\* \* \* \* \*

### STATE DISBURSEMENT TO SCHOOLS

SEC. 8. (a) Funds paid to any State during any fiscal year pursuant to section 4 shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school lunch program.

(b) The agreements described in [the preceding sentence] *subsection (a)* shall be permanent agreements that may be amended as necessary. [Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to]

(c) *The State educational agency may suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary. [Such disbursement to any school shall be made only for the purpose of assisting it to obtain agricultural commodities and other foods for consumption by children in the school lunch program. The terms “child” and “children” as used in this Act shall be deemed to include individuals regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to have 1 or more mental or physical handicaps and who are attending any child care institution as defined in section 17 of this Act or any nonresidential public or nonprofit private school of high school grade or under for the*

purpose of participating in a school program established for individuals with mental or physical handicaps: *Provided*, That no institution that is not otherwise eligible to participate in the program under section 17 of this Act shall be deemed so eligible because of this sentence.】

(d) 【Such food costs】 *Use of funds paid to States* may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof.

(e) In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school lunch program under this Act during such year by the maximum per meal reimbursement rate for the State, for the type of lunch served, as prescribed by the Secretary.

(f) In any fiscal year in which the national average payment per lunch determined under section 4 is increased above the amount prescribed in the previous fiscal year, the maximum per meal reimbursement rate for the type of lunch served, shall be increased by a like amount.

Lunch assistance disbursements to schools under this section and under section 11 of this Act may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

#### NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

##### SEC. 9. (a)(1) \* \* \*

(2)【(A)】 Lunches served by schools participating in the school lunch program under this Act—

【(i)】 (A) shall offer students fluid milk; and

【(ii)】 (B) shall offer students a variety of fluid milk consistent with prior year preferences unless the prior year preference for any such variety of fluid milk is less than 1 percent of the total milk consumed at the school.

【(B)(i) The Secretary shall purchase in each calendar year to carry out the school lunch program under this Act, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), lowfat cheese on a bid basis in a quantity that is the milkfat equivalent of the quantity of milkfat the Secretary estimates the Commodity Credit Corporation will purchase each calendar year as a result of the elimination of the requirement that schools offer students fluid whole milk and fluid unflavored lowfat milk, based on data provided by the Director of Office of Management and Budget.

【(ii) Not later than 30 days after the Secretary provides an estimate required under clause (i), the Director of the Congressional Budget Office shall provide to the appropriate committees of Congress a report on whether the Director concurs with the estimate of the Secretary.

【(iii) The quantity of lowfat cheese that is purchased under this subparagraph shall be in addition to the quantity of cheese that is historically purchased by the Secretary to carry out school feeding programs. The Secretary shall take such actions as are nec-

essary to ensure that purchases under this subparagraph shall not displace commercial purchases of cheese by schools.

[(3)] (3) The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this Act without endangering the nutritional integrity of the lunches served by such schools.

[(4)] (3) Students in senior high schools that participate in the school lunch program under this Act (and, when approved by the local school district or nonprofit private schools, students in any other grade level) shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this Act to any such school for such lunch.

(b)(1) \* \* \*

(2)[(A)] Following the determination by the Secretary under paragraph (1) of this subsection of the income eligibility guidelines for each school year, each State educational agency shall announce the income eligibility guidelines, by family size, to be used by schools in the State in making determinations of eligibility for free and reduced price lunches. Local school authorities shall, each year, publicly announce the income eligibility guidelines for free and reduced price lunches on or before the opening of school.

[(B)] (A) Applications for free and reduced price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, shall be distributed to the parents or guardians of children in attendance at the school, and shall contain only the family size income levels for reduced price meal eligibility with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced price lunches. Such forms and descriptive material may not contain the income eligibility guidelines for free lunches.

[(C)] (B)(i) Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulations, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.

\* \* \* \* \*

(C) *FREE AND REDUCED PRICE POLICY STATEMENT.—After the initial submission, a school shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school. A routine change in the policy of a school, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be suffi-*

*cient cause for requiring the school to submit a policy statement.*

\* \* \* \* \*

(5) Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local school authorities shall publicly announce that such children are eligible for free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. [No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.]

(6)(A) \* \* \*

(B) Proof of receipt of food stamps or aid to families with dependent children, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii), shall be sufficient to satisfy any verification requirement imposed under [paragraph (2)(C)] paragraph (2)(B).

(c) School lunch programs under this Act shall be operated on a nonprofit basis. [Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or commodities donated by the Secretary.] Commodities purchased under the authority of section 32 of the Act of August 24, 1935, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under this Act as well as to other schools carrying out nonprofit school lunch programs and institutions authorized to receive such commodities. [The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 32, under section 416 of the Agricultural Act of 1949 and under section 709 of the Food and Agriculture Act of 1965 as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions.] The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence. [None of the requirements of this section in respect to the amount, for "reduced cost" meals and to eligibility for meals without cost shall apply to schools (as defined in section 12(d)(6) of this Act which are private and nonprofit as defined in the last sentence of section 12(d)(6) of this Act) which participate in the school lunch program under this Act until such time as the State

educational agency, or in the case of such schools which participate under the provisions of section 10 of this Act the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements.】

(d)(1) The Secretary shall require as a condition of eligibility for receipt of free or reduced price lunches that the member of the household who executes the application furnish the social security account number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary. The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under 【subsection (b)(2)(C)】 *subsection (b)(2)(B)*.

\* \* \* \* \*

(f)【(1) Not later than the first day of the 1996–97 school year, the Secretary, State educational agencies, schools, and school food service authorities shall, to the maximum extent practicable, inform students who participate in the school lunch and school breakfast programs, and parents and guardians of the students, of—

【(A) the nutritional content of the lunches and breakfasts that are served under the programs; and

【(B) the consistency of the lunches and breakfasts with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the 'Guidelines'), including the consistency of the lunches and breakfasts with the guideline for fat content.

【(2)(A) Except as provided in subparagraph (B), not later than the first day of the 1996–97 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the programs that are consistent with the Guidelines (as measured in accordance with subsection (a)(1)(A)(ii) and section 4(e)(1)).】 (1) *NUTRITIONAL REQUIREMENTS.—Except as provided in paragraph (2), not later than the first day of the 1996–1997 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the program that—*

*(A) are consistent with the goals of the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341); and*

*(B) provide, on the average over each week, at least—*

*(i) with respect to school lunches,  $\frac{1}{3}$  of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; and*

*(ii) with respect to school breakfasts,  $\frac{1}{4}$  of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences.*

[(B)] (2) State educational agencies may grant waivers from the requirements of subparagraph (A) subject to criteria established by the appropriate State educational agency. The waivers shall not permit schools to implement the requirements later than July 1, 1998, or a later date determined by the Secretary.

[(C)] (3) To assist schools in meeting the requirements of this paragraph, the Secretary—

[(i)] (A) shall—

[(I)] (i) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

[(II)] (ii) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and food-based menu systems; and

[(ii)] (B) may provide to schools information regarding other approaches, as determined by the Secretary.

[(D)] (4) USE OF ANY REASONABLE APPROACH.—

[(i)] (A) IN GENERAL.—A school food service authority may use any reasonable approach, within guidelines established by the Secretary in a timely manner, to meet the requirements of this paragraph, including—

[(I)] (i) using the school nutrition meal pattern in effect for the 1994–1995 school year; and

[(II)] (ii) using any of the approaches described in [subparagraph (C)] paragraph (3).

[(ii)] (B) NUTRIENT ANALYSIS.—The Secretary may not require a school to conduct or use a nutrient analysis to meet the requirements of this paragraph.

\* \* \* \* \*

[(h) In carrying out this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a State educational agency may use resources provided through the nutrition education and training program authorized under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) for training aimed at improving the quality and acceptance of school meals.]

\* \* \* \* \*

#### SPECIAL ASSISTANCE

SEC. 11. (a)(1)(A) \* \* \*

\* \* \* \* \*

(D)(i) In the case of any school that[, on the date of enactment of this subparagraph,] is receiving special assistance payments under this paragraph for a 3-school-year period described in subparagraph (C), the State may grant, at the end of the 3-school-year period, an extension of the period for an additional 2 school years, if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained stable.

\* \* \* \* \*

[(d) In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this Act, including those applicable to funds apportioned



or paid pursuant to section 4 but excluding the provisions of section 7 relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section.

[(e)] (d)(1) The Secretary, when appropriate, may request each school participating in the school lunch program under this Act to report monthly to the State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month.

(2) [The] *On request of the Secretary, the* State educational agency of each State shall report to the Secretary [each month] the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month.

[(f)] (e) Commodity only schools shall also be eligible for special assistance payments under this section. Such schools shall serve meals free to children who meet the eligibility requirements for free meals under section 9(b) of this Act, and shall serve meals at a reduced price, not exceeding the price specified in section 9(b)(3) of this Act, to children meeting the eligibility requirements for reduced price meals under such section. No physical segregation of, or other discrimination against, any child eligible for a free or reduced priced lunch shall be made by the school, nor shall there be any overt identification of any such child by any means.

#### MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12. (a) States, State educational agencies, and schools participating in the school lunch program under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this Act are being complied with. Such accounts and records shall [at all times be available] *be available at any reasonable time* for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

\* \* \* \* \*

(c) In carrying out the provisions of this Act, [neither the Secretary nor the State shall] *the Secretary shall not* impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school.

(d) For the purposes of this Act—

(1) *“child” includes an individual, regardless of age, who—*

*(A) is determined by a State educational agency, in accordance with regulations prescribed by the Secretary, to have 1 or more mental or physical disabilities; and*

*(B) is attending any institution, as defined in section 17(a), or any nonresidential public or nonprofit private school of high school grade or under, for the purpose of participating in a school program established for individuals with mental or physical disabilities.*

*No institution that is not otherwise eligible to participate in the program under section 17 shall be considered eligible because of this paragraph.*

[(7)] (2) “Commodity only schools” means schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.

[(5)] (3) “School” means (A) any public or nonprofit private school of high school grade or under, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor) For purposes of this paragraph, the term “nonprofit”, when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986.

[(6)] (4) “School year” means the annual period from July 1 through June 30.

[(8)] (5) “Secretary” means the Secretary of Agriculture.

[(1)] (6) “State” means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or [the Trust Territory of the Pacific Islands] *the Commonwealth of the Northern Mariana Islands*.

[(2)] (7) “State educational agency” means, as the State legislature may determine, (A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education.

[(3)] “Participation rate” for a State means a number equal to the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 9, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this Act in the State, as determined by the Secretary.

[(4)] “Assistance need rate” (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an average annual per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph (i) the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce; and (ii) the average annual per capita income for American Samoa shall be disregarded in deter-

mining the average annual per capita income for all the States for periods ending before July 1, 1967.】

\* \* \* \* \*

(f) In providing assistance for school breakfasts and lunches served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, 【the Trust Territory of the Pacific Islands,】 and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4 and 11 of this Act and section 4 of the Child Nutrition Act of 1966, to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfasts in all other States.

\* \* \* \* \*

(k)【(1) Prior to the publication of final regulations that implement changes that are intended to bring the meal pattern requirements of the school lunch and breakfast programs into conformance with the guidelines contained in the most recent “Dietary Guidelines for Americans” that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the “Guidelines”), the Secretary shall issue proposed regulations permitting the use of food-based menu systems.

【(2) Notwithstanding chapter 5 of title 5, United States Code, not later than 45 days after the publication of the proposed regulations permitting the use of food-based menu systems, the Secretary shall publish notice in the Federal Register of, and hold, a public meeting with—

【(A) representatives of affected parties, such as Federal, State, and local administrators, school food service administrators, other school food service personnel, parents, and teachers; and

【(B) organizations representing affected parties, such as public interest antihunger organizations, doctors specializing in pediatric nutrition, health and consumer groups, commodity groups, food manufacturers and vendors, and nutritionists involved with the implementation and operation of programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

to discuss and obtain public comments on the proposed rule.】

【(3)】 (1) Not later than June 1, 1995, the Secretary shall issue final regulations to conform the nutritional requirements of the school lunch and breakfast programs with the Guidelines. The final regulations shall include—

(A) rules permitting the use of food-based menu systems; and

(B) adjustments to the rule on nutrition objectives for school meals published in the Federal Register on June 10, 1994 (59 Fed. Reg. 30218).

【(4)】 (2) No school food service authority shall be required to implement final regulations issued pursuant to this subsection until the regulations have been final for at least 1 year.

[(5) The final regulations shall reflect comments made at each phase of the proposed rulemaking process, including the public meeting required under paragraph (2).]

(1)(1) \* \* \*

(2)(A) To request a waiver under paragraph (1), a State or eligible service provider (through the appropriate administering State agency) shall submit an application to the Secretary that—

(i) identifies the statutory or regulatory requirements that are requested to be waived;

(ii) in the case of a State requesting a waiver, describes actions, if any, that the State has undertaken to remove State statutory or regulatory barriers;

(iii) describes the goal of the waiver to improve services under the program and the expected outcomes if the waiver is granted; *and*

(iv) includes a description of the impediments to the efficient operation and administration of the program[;].

[(v) describes the management goals to be achieved, such as fewer hours devoted to, or fewer number of personnel involved in, the administration of the program;

[(vi) provides a timetable for implementing the waiver; and

[(vii) describes the process the State or eligible service provider will use to monitor the progress in implementing the waiver, including the process for monitoring the cost implications of the waiver to the Federal Government.]

(B) An application described in subparagraph (A) shall be developed by the State or eligible service provider and shall be submitted to the Secretary by the State.

(3)[(A)] The Secretary shall act promptly on a waiver request contained in an application submitted under paragraph (2) and shall either grant or deny the request. The Secretary shall state in writing the reasons for granting or denying the request.

[(B) If the Secretary grants a waiver request, the Secretary shall state in writing the expected outcome of granting the waiver.

[(C) The result of the decision of the Secretary shall be disseminated by the State or eligible service provider through normal means of communication.

[(D)(i) Except as provided in clause (ii), a waiver granted by the Secretary under this subsection shall be for a period not to exceed 3 years.

[(ii) The Secretary may extend the period if the Secretary determines that the waiver has been effective in enabling the State or eligible service provider to carry out the purposes of the program.]

(4) The Secretary may not grant a waiver under this subsection [of any requirement relating] *that increases Federal costs or that relates to—*

(A) the nutritional content of meals served;

(B) Federal reimbursement rates;

(C) the provision of free and reduced price meals;

[(D) offer versus serve provisions;]

[(E)] (D) limits on the price charged for a reduced price meal;

**[(F)]** *(E)* maintenance of effort;

**[(G)]** *(F)* equitable participation of children in private schools;

**[(H)]** *(G)* distribution of funds to State and local school food service authorities and service institutions participating in a program under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

**[(I)]** *(H)* the disclosure of information relating to students receiving free or reduced price meals and other recipients of benefits;

**[(J)]** *(I)* prohibiting the operation of a profit producing program;

**[(K)]** *(J)* the sale of competitive foods;

**[(L)]** *(K)* the commodity distribution program under section 14;

**[(M)]** *(L)* the special supplemental nutrition program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); **[and]** *or*

**[(N)]** *(M)* enforcement of any constitutional or statutory right of an individual, including any right under—

(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

\* \* \* \* \*

(6)**[(A)]**(i) An eligible service provider that receives a waiver under this subsection shall annually submit to the State a report that—

**[(I)]** describes the use of the waiver by the eligible service provider; and

**[(II)]** evaluates how the waiver contributed to improved services to children served by the program for which the waiver was requested.

**[(ii)]** The State shall annually submit to the Secretary a report that summarizes all reports received by the State from eligible service providers.

**[(B)]** The Secretary shall annually submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report—

**[(i)]** *(A)* summarizing the use of waivers by the State and eligible service providers;

**[(ii)]** *(B)* describing whether the waivers resulted in improved services to children;

**[(iii)]** *(C)* describing the impact of the waivers on providing nutritional meals to participants; and

**[(iv)]** *(D)* describing how the waivers reduced the quantity of paperwork necessary to administer the program.

\* \* \* \* \*

**[(m)]**(1) The Secretary, acting through the Administrator of the Food and Nutrition Service or through the Extension Service, shall award on an annual basis grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula.

[(2) Each organization or institution referred to in paragraph (1) shall be selected by the Secretary and shall—

[(A) assist local schools and educators in offering food and nutrition education that integrates math, science, and verbal skills in the elementary grades;

[(B) assist local schools and educators in teaching agricultural practices through practical applications, like gardening;

[(C) create community service learning opportunities or educational programs;

[(D) be experienced in assisting in the creation of curriculum-based models in elementary schools;

[(E) be sponsored by an organization or institution, or be an organization or institution, that provides information, or conducts other educational efforts, concerning the success and productivity of American agriculture and the importance of the free enterprise system to the quality of life in the United States; and

[(F) be able to provide model curricula, examples, advice, and guidance to schools, community groups, States, and local organizations regarding means of carrying out similar projects.

[(3) Subject to the availability of appropriations to carry out this subsection, the Secretary shall make grants to each of the 3 private organizations or institutions selected under this subsection in amounts of not less than \$100,000, nor more than \$200,000, for each of fiscal years 1995 through 1998.

[(4) The Secretary shall establish fair and reasonable auditing procedures regarding the expenditure of funds under this subsection.

[(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through 1998.]

#### SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13. (a)(1) The Secretary is authorized to carry out a program to assist States, through grants-in-aid and other means, to [initiate, maintain, and expand] *initiate and maintain* nonprofit food service programs for children in service institutions. For purposes of this section, (A) “program” means the summer food service program for children authorized by this section; (B) “service institutions” means public or private nonprofit school food authorities, local, municipal, or county governments, public or private nonprofit higher education institutions participating in the National Youth Sports Program, and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966; (C) “areas in which poor economic conditions exist” means areas in which at least 50 percent of the children are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966, as determined by information provided from departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located

in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; (D) "children" means individuals who are eighteen years of age and under, and individuals who are older than eighteen who are (i) determined by a State educational agency or a local public educational agency of a State, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped, and (ii) participating in a public or non-profit private school program established for the mentally or physically handicapped; and (E) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, [the Trust Territory of the Pacific Islands,] and the Northern Mariana Islands.

\* \* \* \* \*

(7)(A) [Except as provided in subparagraph (C), private] *Private* nonprofit organizations, as defined in subparagraph (B) (other than organizations eligible under paragraph (1)), shall be eligible for the program under the same terms and conditions as other service institutions.

\* \* \* \* \*

[(b)(1) Payments to service institutions shall equal the full cost of food service operations (which cost shall include the cost of obtaining, preparing, and serving food, but shall not include administrative costs), except that such payments to any institution shall not exceed (1) 85.75 cents for each lunch and supper served; (2) 47.75 cents for each breakfast served; or (3) 22.50 cents for each meal supplement served: *Provided*, That such amounts shall be adjusted each January 1 to the nearest one-fourth cent in accordance with the changes for the twelve-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor: *Provided further*, That the Secretary may make such adjustments in the maximum reimbursement levels as the Secretary determines appropriate after making the study prescribed in paragraph (4) of this subsection.]

(b) *SERVICE INSTITUTIONS.*—

(1) *PAYMENTS.*—

(A) *IN GENERAL.*—*Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).*

(B) *MAXIMUM AMOUNTS.*—*Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—*

(i) \$1.82 for each lunch and supper served;

(ii) \$1.13 for each breakfast served; and

(iii) 46 cents for each meal supplement served.

(C) *ADJUSTMENTS.*—*Amounts specified in subparagraph (B) shall be adjusted on January 1, 1997, and each January 1 thereafter, to the nearest lower cent increment in*

*accordance with the changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.*

(2) Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to **four meals** *3 meals, or 2 meals and 1 supplement*, during each day of operation, if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. **The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements.**

\* \* \* \* \*

(c)(1) \* \* \*

(2)**[(A)]** Notwithstanding any other provision of this Act, any higher education institution that receives reimbursements under the program for meals and meal supplements served to low-income children under the National Youth Sports Program is eligible to receive reimbursements for not more than 2 meals or 1 meal and 1 meal supplement per day for not more than 30 days for each child participating in a National Youth Sports Program operated by such institution during the months other than May through September. The program under this paragraph shall be administered within the State by the same State agency that administers the program during the months of May through September.

**[(B)]** (A) Children participating in National Youth Sports Programs operated by higher education institutions~~[(, and such higher education institutions,)]~~ shall be eligible to participate in the program under this paragraph **[without application]** *upon showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program. The higher education institutions referred to in the preceding sentence shall be eligible to participate in the program under this paragraph without application.*

**[(C)]** (B) Higher education institutions shall be reimbursed for meals and meal supplements served under this paragraph—

(i) in the case of lunches and suppers, at the same rates as the payment rates established for free lunches under section 11; and

(ii) in the case of breakfasts or meal supplements, at the same rates as the **[severe need]** payment rates established for free breakfasts under section 4 of the Child Nutrition Act of 1966.

**[(D)]** (C)(i) Meals for which a higher education institution is reimbursed under this paragraph shall fulfill the minimum nutritional requirements and meal patterns prescribed by the Secretary—



(I) for meals served under the school lunch program under this Act, in the case of reimbursement for lunches or suppers; and

(II) for meals served under the school breakfast program under section 4 of the Child Nutrition Act of 1966, in the case of reimbursement for breakfasts.

(ii) The Secretary may modify the minimum nutritional requirements and meal patterns prescribed by the Secretary for meals served under the school breakfast program under section 4 of the Child Nutrition Act of 1966 for application to meal supplements for which a higher education institution is reimbursed under this paragraph.

[(E)] (D) The Secretary shall issue regulations governing the implementation, operation, and monitoring of programs receiving assistance under this paragraph that, to the maximum extent practicable, are comparable to those established for higher education institutions participating in the National Youth Sports Program and receiving reimbursements under the program for the months of May through September.

\* \* \* \* \*

(e)(1) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service [institution: *Provided, That (A) the*] *institution. The State shall not release the second month's advance program payment to any service institution (excluding a school) that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and [responsibilities, and (B) no] responsibilities. No advance program payment may be made for any month in which the service institution will operate under the program for less than ten days.*

\* \* \* \* \*

(f)(1) Service institutions receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research.

(2) The Secretary shall provide technical assistance to service institutions and private nonprofit organizations participating in the program to assist the institutions and organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to this subsection. [The Secretary shall provide additional technical assistance to those service institutions and private nonprofit organizations that are having difficulty maintaining compliance with the requirements.]

(3) Meals described in [(the first sentence)] *paragraph (1)* shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a)(5) of this section.

(4) To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State.

(5) Such contracts shall require (A) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (B) **that bacteria levels conform to the standards which are applied by the local health authority for that locality with respect to the levels of bacteria that may be present in meals served by other establishments in that locality.** *conformance with standards set by local health authorities.*

(6) Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

(7) *OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child attending a site on school premises operated directly by the authority to refuse not more than 1 item of a meal that the child does not intend to consume. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.*

\* \* \* \* \*

(1)(1) \* \* \*

\* \* \* \* \*

**[(4) In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.]**

**[(5) Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies.] (4) The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of \$100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.**

(m) States and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall **[at all times be available]** *be available at any reasonable time* for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n) Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit for approval by February 15 a management and administration plan for the program for the fiscal year, which shall include, but not be limited to, (1) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection (k) of this section; (2) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children [, including the State's methods of assessing need, and its plans and schedule for informing service institutions of the availability of the program]; [(3) the State's best estimate of the number and character of service institutions and sites to be approved, and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used; (4)] (3) the State's plans [and schedule] for providing technical assistance and training eligible service institutions; [(5)] (4) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; [(6)] (5) the State's plan for timely and effective action against program violators; and [(7)] (6) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary.

\* \* \* \* \*

[(p)] During the fiscal years 1990 and 1991, the Secretary and the States shall carry out a program to disseminate to potentially eligible private nonprofit organizations information concerning the amendments made by the Child Nutrition and WIC Reauthorization Act of 1989 regarding the eligibility under subsection (a)(7) of private nonprofit organizations for the program established under this section.]

[(q)] (p)(1) In addition to the normal monitoring of organizations receiving assistance under this section, the Secretary shall establish a system under which the Secretary and the States shall monitor the compliance of private nonprofit organizations with the requirements of this section and with regulations issued to implement this section.

[(2)] The Secretary shall require each State to establish and implement an ongoing training and technical assistance program for private nonprofit organizations that provides information on program requirements, procedures, and accountability. The Secretary shall provide assistance to State agencies regarding the development of such training and technical assistance programs.]

[(3)] (2) In the fiscal year 1990 and each succeeding fiscal year, the Secretary may reserve for purposes of carrying out [paragraphs (1) and (2) of this subsection] *paragraph (1)* not more than  $\frac{1}{2}$  of 1 percent of amounts appropriated for purposes of carrying out this section.

[(4)] For the purposes of this subsection, the term "private nonprofit organization" has the meaning given such term in subsection (a)(7)(B).]

**[(r)]** (q) For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1998, there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

#### COMMODITY DISTRIBUTION PROGRAM

SEC. 14. (a) \* \* \*

(b)**[(1)]** Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.**]**

**[(2)]** (1) The Secretary shall maintain and continue to improve the overall nutritional quality of entitlement commodities provided to schools to assist the schools in improving the nutritional content of meals.

**[(3)]** (2) The Secretary shall—

(A) require that nutritional content information labels be placed on packages or shipments of entitlement commodities provided to the schools; or

(B) otherwise provide nutritional content information regarding the commodities provided to the schools.

\* \* \* \* \*

(d) In providing assistance under this Act and the Child Nutrition Act of 1966 for school lunch and breakfast programs, the Secretary shall establish procedures which will—

(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

(2) solicit the views of States with respect to the acceptability of commodities;

(3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

(5) make available technical assistance on the use of commodities available under this Act and the Child Nutrition Act of 1966.

**[**Within eighteen months after the date of the enactment of this subsection, the Secretary shall report to Congress on the impact of procedures established under this subsection, including the nutritional, economic, and administrative benefits of such procedures. In purchasing commodities for programs carried out under this Act and the Child Nutrition Act of 1966, the Secretary shall establish procedures to ensure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compli-

ance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

[(e)] Each State educational agency that receives food assistance payments under this section for any school year shall establish for such year an advisory council, which shall be composed of representatives of schools in the State that participate in the school lunch program. The council shall advise such State agency with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.]

[(f)] (e) Commodity only schools shall be eligible to receive donated commodities equal in value to the sum of the national average value of donated foods established under section 6(e) of this Act and the national average payment established under section 4 of this Act. Such schools shall be eligible to receive up to 5 cents per meal of such value in cash for processing and handling expenses related to the use of such commodities. Lunches served in such schools shall consist of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act, and shall represent the four basic food groups, including a serving of fluid milk.

[(g)] (f)(1) As used in this subsection, the term "eligible school district" has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

[(3)(A)] On request of a participating school district (and after consultation with the Comptroller General of the United States with respect to accounting procedures used to determine any losses) and subject to the availability of funds, the Secretary shall provide cash compensation to an eligible school district for losses sustained by the district as a result of the alteration of the methodology used to conduct the study referred to in section 1581(a) of such Act during the school year ending June 30, 1983. The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the difference between the value of bonus commodity assistance received by such school district under this Act for the school year ending June 30, 1983, and the value of bonus commodities received by such school district under this Act for the school year ending June 30, 1982. For the purposes of this subparagraph—

[(i)] the term "bonus commodities" means commodities provided in addition to commodities provided pursuant to section 6(e); and

[(ii)] the term "bonus commodity assistance" means assistance, in the form of bonus commodities, cash, or commodity letters of credit, provided in addition to assistance provided pursuant to section 6(e).

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than 1 year after the date of the en-

actment of the Child Nutrition and WIC Reauthorization Act of 1989. The Secretary shall, during the 45-day period beginning on October 1, 1990, complete action on any claim submitted under this subparagraph.

[(B) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph, to be available without fiscal year limitation.]

\* \* \* \* \*

#### CHILD [AND ADULT] CARE FOOD PROGRAM

SEC. 17. (a) The Secretary may carry out a program to assist States through grants-in-aid and other means to [initiate, maintain, and expand] *initiate and maintain* nonprofit food service programs for children in institutions providing child care. For purposes of this section, the term “institution” means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for children with handicaps; and such term shall also mean any other private organization providing nonresidential day care services for which it receives compensation from amounts granted to the States under title XX of the Social Security Act (but only if such organization receives compensation under such title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less). In addition, the term “institution” shall include programs developed to provide day care outside school hours for schoolchildren, and public or nonprofit private organizations that sponsor family or group day care homes. Reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for children with handicaps). The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours. For purposes of determining eligibility—

(1) no institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution’s license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; and

(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:

(A) accepts final administrative and financial responsibility for management of an effective food service;

(B) has not been seriously deficient in its operation of the child care food program, or any other program under this Act or the Child Nutrition Act of 1966, for a period of time specified by the Secretary; **[and]**

(C) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program**[.]; and**

*(D) in the case of a family or group day care home sponsoring organization that employs more than 1 employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited.*

\* \* \* \* \*

(c)(1) For purposes of this section, *except as provided in subsection (f)(3)*, the national average payment rate for free lunches and suppers, the national average payment rate for reduced price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced price lunches, and paid lunches, respectively, under sections 4 and 11 of this Act as appropriate (as adjusted pursuant to section 11(a) of this Act).

(2) For purposes of this section, *except as provided in subsection (f)(3)*, the national average payment rate for free breakfasts, the national average payment rate for reduced price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 (as adjusted pursuant to section 11(a) of this Act).

(3) For purposes of this section, *except as provided in subsection (f)(3)*, the national average payment rate for free supplements shall be 30 cents, the national average payment rate for reduced price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.75 cents (as adjusted pursuant to section 11(a) of this Act).

(4) Determinations with regard to eligibility for free and reduced price meals and supplements shall be made in accordance with the income eligibility guidelines for free lunches and reduced price lunches, respectively, under section 9 of this Act.

(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).

(6)(A) A child who has not yet entered kindergarten shall be considered automatically eligible for benefits under this section without further application or eligibility determination if the child is enrolled as a participant in the Even Start program under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.).

(B) Subparagraph (A) shall apply only with respect to the provision of benefits under this section for the period beginning September 1, 1995, and ending September 30, 1997.

(d)(1) Any eligible public institution shall be approved for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (A) has tax exempt status under the Internal Revenue Code of 1986 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax exempt status, or (B) is currently operating a Federal program requiring nonprofit status. Family or group day care homes need not have individual tax exempt certification if they are sponsored by an institution that has tax exempt status, or, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status or is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this section shall be notified of approval or disapproval in writing within thirty days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application.

(2)(A) The Secretary shall develop a policy that allows institutions providing child care that participate in the program under this section, at the option of the State agency, to reapply for assistance under this section at 3-year intervals.

(B) Each State agency that exercises the option authorized by subparagraph (A) shall confirm on an annual basis that each such institution is in compliance with the licensing or approval provisions of subsection (a)(1).

\* \* \* \* \*

(f)(1) \* \* \*

(2)(A) \* \* \*

(B) No reimbursement may be made to any institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (3) of this subsection, for more than two meals and one supplement per day per child, or in the case of an institution (but not in the case of a family or group day care home sponsoring organization), [two meals and two supplements or three meals and one supplement] *two meals and one supplement* per day per child, for children that are maintained in a child care setting for eight or more hours per day.

[(3)(A) Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor set by the Secretary for the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs, except that reimbursement shall not be provided under this subparagraph for meals or supplements served to the children of a person acting as a family or group day care home provider unless such children meet the eligibility standards for free or reduced price meals under section 9 of this Act. The reimbursement factor



in effect as of the date of the enactment of this sentence shall be reduced by 10 percent. The reimbursement factor under this subparagraph shall be adjusted on July 1 of each year to reflect changes in the Consumer Price Index for food away from home for the most recent 12-month period for which such data are available. The reimbursement factor under this subparagraph shall be rounded to the nearest one-fourth cent.】

(3) *REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.*—

(A) *REIMBURSEMENT FACTOR.*—

(i) *IN GENERAL.*—*An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.*

(ii) *TIER I FAMILY OR GROUP DAY CARE HOMES.*—

(I) *DEFINITION.*—*In this paragraph, the term “tier I family or group day care home” means—*

(aa) *a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;*

(bb) *a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or*

(cc) *a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring or organization of the home under regulations established by the Secretary.*

(II) *REIMBURSEMENT.*—*Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.*

(III) *FACTORS.*—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on July 1, 1996.

(IV) *ADJUSTMENTS.*—The reimbursement factors under this subparagraph shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

(iii) *TIER II FAMILY OR GROUP DAY CARE HOMES.*—

(I) *IN GENERAL.*—

(aa) *FACTORS.*—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 90 cents for lunches and suppers, 25 cents for breakfasts, and 10 cents for supplements.

(bb) *ADJUSTMENTS.*—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

(cc) *REIMBURSEMENT.*—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

(II) *OTHER FACTORS.*—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

(aa) *CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.*—In the case of meals or supplements served under this subsection to children who are members of households

*whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).*

*(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).*

*(III) INFORMATION AND DETERMINATIONS.—*

*(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.*

*(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.*

*(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.*

*(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:*

(aa) *Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.*

(bb) *Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).*

(cc) *Such other simplified procedures as the Secretary may prescribe.*

(V) *MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.*

(B) Family or group day care home sponsoring organizations shall also receive reimbursement for their administrative expenses in amounts not exceeding the maximum allowable levels prescribed by the Secretary. Such levels shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for all items for the most recent 12-month period for which such data are available. **【The maximum allowable levels for administrative expense payments, as in effect as of the date of the enactment of this subparagraph, shall be adjusted by the Secretary so as to achieve a 10 percent reduction in the total amount of reimbursement provided to institutions for such administrative expenses. In making the reduction required by the preceding sentence, the Secretary shall increase the economy of scale factors used to distinguish institutions that sponsor a greater number of family or group day care homes from those that sponsor a lesser number of such homes.】**

(C)**【(i)】** Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas. Institutions that have received start-up funds may also apply at a later date for expansion funds. Such start-up funds and expansion funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds and expansion funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization

or to implement the program upon approval of the application. Such start-up funds and expansion funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds and expansion funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

[(ii) Funds for administrative expenses may be used by family or group day care home sponsoring organizations to conduct outreach and recruitment to unlicensed family or group day care homes so that the day care homes may become licensed.]

*(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—*

*(i) IN GENERAL.—*

*(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve \$5,000,000 of the amount made available for fiscal year 1997.*

*(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—*

*(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and*

*(bb) training and other assistance to family and group day care homes in the implementation of the amendment to subparagraph (A) made by section 3408(e)(1) of the Personal Responsibility and Work Opportunity Act of 1996.*

*(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—*

*(I) \$30,000 in base funding to each State; and*

*(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1995 as a percentage of the number of all family day care homes participating in the program during fiscal year 1995.*

*(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1997 under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.*

*(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A).*

(E) *PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—*

(i) *CENSUS DATA.—The Secretary shall provide to each State agency administering a child care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.*

(ii) *SCHOOL DATA.—*

(I) *IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than 1/2 of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.*

(II) *USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.*

(iii) *DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.*

(4) By the first day of each month of operation, the State **[shall]** *may* provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has

reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

(g)(1)(A) Meals served by institutions participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. [Such meals shall be served free to needy children.]

(B) The Secretary shall provide technical assistance to those institutions participating in the program under this section to assist the institutions and family or group day care home sponsoring organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A). [The Secretary shall provide additional technical assistance to those institutions and family or group day care home sponsoring organizations that are having difficulty maintaining compliance with the requirements.]

(2) No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

\* \* \* \* \*

[(k)(1) States participating in the program under this section shall provide sufficient training, technical assistance, and monitoring to facilitate expansion and effective operation of the program, and shall take affirmative action to expand the availability of benefits under this section. Such action, at a minimum, shall include annual notification to each nonparticipating institution or family or group day care home within the State that is licensed, approved, or registered, or that receives funds under title XX of the Social Security Act, of the availability of the program, the requirements for program participation, and the application procedures to be followed in the program. The list of institutions so notified each year shall be available to the public upon request. The Secretary shall assist the States in developing plans to fulfill the requirements of this subsection.]

[(2) The Secretary shall conduct demonstration projects to test innovative approaches to remove or reduce barriers to participation in the program established under this section regarding family or group day care homes that operate in low-income areas or that primarily serve low-income children. As part of such demonstration projects, the Secretary may provide grants to, or otherwise modify administrative reimbursement rates for, family or group day care home sponsoring organizations.]

[(3) The Secretary and the States shall provide training and technical assistance to assist family and group day care home sponsoring organizations in reaching low-income children.]

[(4) The Secretary shall instruct States to provide, through sponsoring organizations, information and training concerning child health and development to family or group day care homes participating in the program.]

(k) *TRAINING AND TECHNICAL ASSISTANCE.*—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.

\* \* \* \* \*

(m) States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available [at all times] *at any reasonable time* for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

\* \* \* \* \*

(o)(1) For purposes of this section, [adult day care centers] *day care centers for chronically impaired disabled persons* shall be considered eligible institutions for reimbursement for meals or supplements served [to persons 60 years of age or older or] to chronically impaired disabled persons, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction. Reimbursement provided to such institutions for such purposes shall improve the quality of meals or level of services provided or increase participation in the program. Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately  $\frac{1}{3}$  of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants.

(2) For purposes of this subsection—

(A) the term “[adult day care center] *day care center for chronically impaired disabled persons*” means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

(i) is licensed or approved by Federal, State, or local authorities to provide [adult] day care services to chronically impaired disabled [adults or persons 60 years of age or older] *persons* in a group setting outside their homes, or a group living arrangement, on a less than 24-hour basis; and

(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and



(B) the term “proprietary title XIX or title XX center” means any private, for-profit center providing [adult day care services] *day care services for chronically impaired disabled persons* for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act and which title XIX or title XX beneficiaries were not less than 25 percent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

\* \* \* \* \*

[(q)(1) The Secretary shall provide State agencies with basic information concerning the importance and benefits of the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

[(2) The State agency shall—

[(A) provide each child care institution participating in the program established under this section, other than institutions providing day care outside school hours for schoolchildren, with materials that include—

[(i) a basic explanation of the benefits and importance of the special supplemental nutrition program for women, infants, and children;

[(ii) the maximum income limits, according to family size, applicable to children up to age 5 in the State under the special supplemental nutrition program for women, infants, and children; and

[(iii) a listing of the addresses and phone numbers of offices at which parents may apply;

[(B) annually provide the institutions with an update of the information on income limits described in subparagraph (A)(ii); and

[(C) ensure that, at least once a year, the institutions to which subparagraph (A) applies provide written information to parents that includes—

[(i) basic information on the benefits provided under the special supplemental nutrition program for women, infants, and children;

[(ii) information on the maximum income limits, according to family size, applicable to the program; and

[(iii) information on where parents may apply to participate in the program.]

\* \* \* \* \*

#### **SEC. 17B. HOMELESS CHILDREN NUTRITION PROGRAM.**

(a) \* \* \*

\* \* \* \* \*

(d) **FUNDING PRIORITIES.**—From the amount described in subsection (g), the Secretary shall provide funding for projects carried out under this section for a particular fiscal year (referred to in this subsection as the “current fiscal year”) in the following order of priority, to the maximum extent practicable:

(1) The Secretary shall first provide the funding to entities and organizations, each of which—

(A) received funding under this section or section **18(c)** *18(b)* (as in effect on the day before the date of enactment of this section) to carry out a project for the preceding fiscal year; and

\* \* \* \* \*

(f) **PLAN TO ALLOW PARTICIPATION IN THE CHILD [AND ADULT] CARE FOOD PROGRAM.**—Not later than September 30, 1996, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan describing—

(1) how emergency shelters and homeless children who have not attained the age of 6 and who are served by the shelters under the program might participate in the child [and adult] care food program authorized under section 17 by September 30, 1998; and

(2) the advantages and disadvantages of the action described in paragraph (1).

\* \* \* \* \*

#### PILOT PROJECTS

**SEC. 18.** **[(a)]** The Secretary may conduct pilot projects in not more than three States in which the Secretary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this Act and the Child Nutrition Act of 1966 for schools, institutions, or service institutions referred to in section 10 of this Act and section 5 of the Child Nutrition Act of 1966.]

**[(b)]** *(a)(1)* Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program beginning July 1, 1987. The Secretary, directly or through contract, shall administer the project under this subsection.

(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.

**[(c)]** *(b)(1)* Using the funds provided under paragraph (7), the Secretary shall conduct at least 1 demonstration project through a participating entity during each of fiscal years 1995 through 1998 that is designed to provide food and nutrition services throughout the year to—

(A) \* \* \*

\* \* \* \* \*

**[(d)]** *(c)(1)(A)* The Secretary shall carry out a pilot program for purposes of identifying alternatives to—

(i) daily counting by category of meals provided by school lunch programs under this Act; and

\* \* \* \* \*

[(3)(A) The Secretary shall carry out a pilot program under which a limited number of schools participating in the special assistance program under section 11(a)(1) that have universal free school lunch programs shall have the option of determining the number of free meals, reduced price meals, and paid meals provided daily under the school lunch program operated by such school by applying percentages determined under subparagraph (B) to the daily total student meal count.

[(B) The percentages determined under this subparagraph shall be established on the basis of the master roster of students enrolled in the school concerned, which—

[(i) shall include a notation as to the eligibility status of each student with respect to the school lunch program; and

[(ii) shall be updated not later than September 30 of each year.

[(C) For the purposes of this paragraph, a universal free school lunch program is a program under which the school operating the program elects to serve all children in that school free lunches under the school lunch program during any period of 3 successive years and pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period.]

[(4)] (3) In addition to the pilot projects described in this subsection, the Secretary may conduct other pilot projects to test alternative counting and claiming procedures.

[(5)] (4) Each pilot program carried out under this subsection shall be evaluated by the Secretary after it has been in operation for 3 years.

[(e)] (d)(1)[(A)] The Secretary [shall] *may* establish a demonstration program to provide grants to eligible institutions or schools to provide meals or supplements to adolescents participating in educational, recreational, or other programs and activities provided outside of school hours.

[(B) The amount of a grant under subparagraph (A) shall be equal to the amount necessary to provide meals or supplements described in such subparagraph and shall be determined in accordance with reimbursement payment rates for meals and supplements under the child and adult care food program under section 17.]

(2) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school submits to the Secretary an application containing such information as the Secretary may reasonably require.

(3) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school agrees that the institution or school will—

(A) use amounts from the grant to provide meals or supplements under educational, recreational, or other programs and activities for adolescents outside of school hours, and the programs and activities are carried out in geographic areas in

which there are high rates of poverty, violence, or drug and alcohol abuse among school-aged youths; and

(B) use the same meal patterns as meal patterns required under the child [and adult] care food program under section 17.

(4) Determinations with regard to eligibility for free and reduced price meals and supplements provided under programs and activities under this subsection shall be made in accordance with the income eligibility guidelines for free and reduced price lunches under section 9.

[(5)(A) Except as provided in subparagraph (B), the Secretary shall expend to carry out this subsection, from amounts appropriated for purposes of carrying out section 17, \$325,000 for fiscal year 1995, \$475,000 for each of fiscal years 1996 and 1997, and \$525,000 for fiscal year 1998. In addition to amounts described in the preceding sentence, the Secretary shall expend any additional amounts in any fiscal year as may be provided in advance in appropriations Acts.

[(B) The Secretary may expend less than the amount required under subparagraph (A) if there is an insufficient number of suitable applicants.]

(5) *AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1997 and 1998.*

(6) As used in this subsection:

(A) The term “adolescent” means a child who has attained the age of 13 but has not attained the age of 19.

(B) The term “eligible institution or school” means—

(i) an institution, as the term is defined in section 17;

or

(ii) an elementary or secondary school participating in the school lunch program under this Act.

(C) The term “outside of school hours” means after-school hours, weekends, or holidays during the regular school year.

[(f)] (e)(1) Subject to the availability of appropriations to carry out this subsection, the Secretary shall establish pilot projects in at least 25 school districts under which the milk offered by schools meets the fortification requirements of paragraph (3) for lowfat, skim, and other forms of fluid milk.

\* \* \* \* \*

[(g)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of fruits, vegetables, legumes, cereals, and grain-based products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collectively referred to in this subsection as “qualified products”).

[(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

[(3) The Secretary may provide a priority for receiving funds under this subsection to—

[(A) schools that are located in low-income areas (as defined by the Secretary); and

[(B) schools that rarely offer 3 or more choices of qualified products per meal.

[(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

[(A) the extent to which participating children increased consumption of qualified products;

[(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

[(C) the desirability of requiring that—

[(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

[(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

[(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

[(D) the views of school food service authorities on the pilot project; and

[(E) any increase or reduction in costs to the schools in offering the additional qualified products.

[(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than \$5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

[(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

[(h)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of lowfat dairy products (including lactose-free dairy products) and lean meat and poultry products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collectively referred to in this subsection as “qualified products”).

[(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

[(3) The Secretary may provide a priority for receiving funds under this subsection to—

[(A) schools that are located in low-income areas (as defined by the Secretary); and

[(B) schools that rarely offer 3 or more choices of qualified products per meal.

[(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

[(A) the extent to which participating children increased consumption of qualified products;

[(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

[(C) the desirability of requiring that—

[(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

[(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

[(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

[(D) the views of the school food service authorities on the pilot project; and

[(E) any increase or reduction in costs to the schools in offering the additional qualified products.

[(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than \$5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

[(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

[(i)(1) Subject to the availability of advance appropriations under paragraph (8), the Secretary shall make grants to a limited number of schools to conduct pilot projects in 2 or more States approved by the Secretary to—

[(A) reduce paperwork;

[(B) reduce application and meal counting requirements; and

[(C) make changes that will increase participation in the school lunch and school breakfast programs.

[(2)(A) Except as provided in subparagraph (B), the Secretary may waive the requirements of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) relating to counting of meals, applications for eligibility, and related requirements that would

preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).

[(B) The Secretary may not waive a requirement under subparagraph (A) if the waiver would prevent a program participant, a potential program recipient, or a school from receiving all of the benefits and protections of this Act, the Child Nutrition Act of 1966, or a Federal statute or regulation that protects an individual constitutional right or a statutory civil right.

[(C) No child otherwise eligible for free or reduced price meals under section 9 or under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall be required to pay more under a program carried out under this subsection for such a meal than the child would otherwise pay under section 9 or under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively.

[(3) To be eligible to receive a grant to conduct a pilot project under this subsection, a school shall—

[(A) submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, including, at a minimum, information—

[(i) demonstrating that the program carried out under the project differs from programs carried out under subparagraph (C), (D), or (E) of section 11(a)(1);

[(ii) demonstrating that at least 40 percent of the students participating in the school lunch program at the school are eligible for free or reduced price meals;

[(iii) demonstrating that the school operates both a school lunch program and a school breakfast program;

[(iv) describing the funding, if any that the school will receive from non-Federal sources to carry out the pilot project;

[(v) describing and justifying the additional amount, over the most recent prior year reimbursement amount received under the school lunch program and the school breakfast program (adjusted for inflation and fluctuations in enrollment), that the school needs from the Federal government to conduct the pilot; and

[(vi) describing the policy of the school on a la carte and competitive foods;

[(B) not have a history of violations of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

[(C) meet any other requirement that the Secretary may reasonably require.

[(4) To the extent practicable, the Secretary shall select schools to participate in the pilot program under this subsection in a manner that will provide for an equitable distribution among the following types of schools:

[(A) Urban and rural schools.

[(B) Elementary, middle, and high schools.

[(C) Schools of varying income levels.

[(5)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive commodities in an amount equal to the amount the school received in the prior year under the school lunch program under this Act and

under the school breakfast program under section 4 of the Child Nutrition Act of 1966, adjusted for inflation and fluctuations in enrollment.

[(B) Commodities required for the pilot project in excess of the amount of commodities received by the school in the prior year under the school lunch program and the school breakfast program may be funded from amounts appropriated to carry out this section.

[(6)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive a total Federal reimbursement under the school lunch program and school breakfast program in an amount equal to the total Federal reimbursement for the school in the prior year under each such program (adjusted for inflation and fluctuations in enrollment).

[(B) Funds required for the pilot project in excess of the level of reimbursement received by the school in the prior year (adjusted for inflation and fluctuations in enrollment) may be taken from any non-Federal source or from amounts appropriated to carry out this subsection. If no appropriations are made for the pilot projects, schools may not conduct the pilot projects.

[(7)(A) The Secretary shall require each school conducting a pilot project under this subsection to submit to the Secretary documentation sufficient for the Secretary, to the extent practicable, to—

[(i) determine the effect that participation by schools in the pilot projects has on the rate of student participation in the school lunch program and the school breakfast program, in total and by various income groups;

[(ii) compare the quality of meals served under the pilot project to the quality of meals served under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

[(iii) summarize the views of students, parents, and administrators with respect to the pilot project;

[(iv) compare the amount of administrative costs under the pilot project to the amount of administrative costs under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

[(v) determine the reduction in paperwork under the pilot project from the amount of paperwork under the school lunch and school breakfast programs at the school; and

[(vi) determine the effect of participation in the pilot project on sales of, and school policy regarding, a la carte and competitive foods.

[(B) Not later than January 31, 1998, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing—

[(i) a description of the pilot projects approved by the Secretary under this subsection;

[(ii) a compilation of the information received by the Secretary under paragraph (1) as of this date from each school conducting a pilot project under this subsection; and



[(iii) an evaluation of the program by the Secretary.

[(8) There are authorized to be appropriated to carry out this subsection \$9,000,000 for each fiscal year during the period beginning October 1, 1995, and ending July 31, 1998.

**[SEC. 19. REDUCTION OF PAPERWORK.]**

[(a) IN GENERAL.—In carrying out functions under this Act and the Child Nutrition Act of 1966, the Secretary shall, to the maximum extent possible, reduce the paperwork required of State and local educational agencies, schools, other agencies participating in nutrition programs assisted under such Acts, and families of children participating in the programs, in connection with such participation.

[(b) CONSULTATION; PUBLIC COMMENT.—In carrying out the requirements of subsections (a), the Secretary shall—

[(1) consult with State and local administrators of programs assisted under this Act or the Child Nutrition Act of 1966;

[(2) convene at least 1 meeting of the administrators described in paragraph (1) not later than the expiration of the 10-month period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989; and

[(3) obtain suggestions from members of the public with respect to reduction of paperwork.

[(c) REPORT.—Before the expiration of the 1-year period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, the Secretary shall report to the Congress concerning the extent to which a reduction has occurred in the amount of paperwork described in subsection (a). Such report shall be developed in consultation with the administrators described in subsection (b)(1).]

\* \* \* \* \*

**[SEC. 23. INFORMATION ON INCOME ELIGIBILITY.]**

[(a) INFORMATION TO BE PROVIDED.—In the case of each program established under this Act and the Child Nutrition Act of 1966, the Secretary shall provide to each appropriate State agency—

[(1) information concerning what types of income are counted in determining the eligibility of children to receive free or reduced price meals under the program in which such State, State agency, local agency, or other entity is participating, particularly with respect to how net self-employment income is determined for family day care providers participating in the child care food program (including the treatment of reimbursements provided under this section); and

[(2) information concerning the consideration of applications for free or reduced price meals from households in which the head of the household is less than 21 years old.

[(b) TIME FOR PROVISION OF INFORMATION.—The Secretary shall provide the information required by subsection (a) before the expiration of the 60-day period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989 and shall as necessary provide revisions of such information.

[(c) FORM SIMPLIFICATION.—Not later than July 1, 1990, the Secretary shall—

[(1) review the model application forms for programs under this Act and programs under the Child Nutrition Act of 1966; and

[(2) simplify the format and instructions for such forms so that the forms are easily understandable by the individuals who must complete them.”.

**[SEC. 24. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.**

[(a) NUTRITION GUIDANCE PUBLICATION.—

[(1) DEVELOPMENT.—The Secretary of Agriculture and the Secretary of Health and Human Services shall jointly develop and approve a publication to be entitled “Nutrition Guidance for Child Nutrition Programs” (hereafter in this section referred to as the “publication”). The Secretary shall develop the publication as required by the preceding sentence before the expiration of the 2-year period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989.

[(2) TIME FOR DISTRIBUTION.—Before the expiration of the 6-month period beginning on the date that the development of the publication is completed, the Secretary shall distribute the publication to school food service authorities and institutions and organizations participating in covered programs.

[(b) REVISION OF MENU PLANNING GUIDES.—The Secretary shall, as necessary, revise the menu planning guides for each covered program to include recommendations for the implementation of nutrition guidance described in the publication.

[(c) APPLICATION OF NUTRITION GUIDANCE TO MEAL PROGRAMS.—In carrying out any covered program, school food authorities and other organizations and institutions participating in such program shall apply the nutrition guidance described in the publication when preparing meals and meal supplements served under such program.

[(d) IMPLEMENTATION.—In carrying out covered programs, the Secretary shall ensure that meals and meal supplements served under such programs are consistent with the nutrition guidance described in the publication.

[(e) REVISION OF PUBLICATION.—The Secretary and the Secretary of Health and Human Services may jointly update and approve the publication as warranted by scientific evidence.

[(f) COVERED PROGRAMS.—For the purposes of this section, the term “covered program” includes—

[(1) the school lunch program under this Act;

[(2) the summer food service program for children under section 13;

[(3) the child care food program under section 17; and

[(4) the school breakfast program under section 4 of the Child Nutrition Act of 1966.]

**SEC. 25. DUTIES OF THE SECRETARY RELATING TO NONPROCUREMENT DEBARMENT.**

(a) \* \* \*

(b) DEFINITIONS.—As used in this section:

(1) CHILD NUTRITION PROGRAM.—The term “child nutrition program” means—

(A) the school lunch program established under this Act;

(B) the summer food service program for children established under section 13;

(C) the child [and adult] care food program established under section 17;

\* \* \* \* \*

**[SEC. 26. INFORMATION CLEARINGHOUSE.]**

[(a) IN GENERAL.—The Secretary shall enter into a contract with a nongovernmental organization described in subsection (b) to establish and maintain a clearinghouse to provide information to nongovernmental groups located throughout the United States that assist low-income individuals or communities regarding food assistance, self-help activities to aid individuals in becoming self-reliant, and other activities that empower low-income individuals or communities to improve the lives of low-income individuals and reduce reliance on Federal, State, or local governmental agencies for food or other assistance.

[(b) NONGOVERNMENTAL ORGANIZATION.—The nongovernmental organization referred to in subsection (a) shall be selected on a competitive basis and shall—

[(1) be experienced in the gathering of first-hand information in all the States through onsite visits to grassroots organizations in each State that fight hunger and poverty or that assist individuals in becoming self-reliant;

[(2) be experienced in the establishment of a clearinghouse similar to the clearinghouse described in subsection (a);

[(3) agree to contribute in-kind resources towards the establishment and maintenance of the clearinghouse and agree to provide clearinghouse information, free of charge, to the Secretary, States, counties, cities, antihunger groups, and grassroots organizations that assist individuals in becoming self-sufficient and self-reliant;

[(4) be sponsored by an organization, or be an organization, that—

[(A) has helped combat hunger for at least 10 years;

[(B) is committed to reinvesting in the United States;

and

[(C) is knowledgeable regarding Federal nutrition programs;

[(5) be experienced in communicating the purpose of the clearinghouse through the media, including the radio and print media, and be able to provide access to the clearinghouse information through computer or telecommunications technology, as well as through the mails; and

[(6) be able to provide examples, advice, and guidance to States, counties, cities, communities, antihunger groups, and local organizations regarding means of assisting individuals and communities to reduce reliance on government programs, reduce hunger, improve nutrition, and otherwise assist low-income individuals and communities become more self-sufficient.

[(c) AUDITS.—The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

[(d) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary to provide to the organization selected under this section, to establish and maintain the information clearinghouse, \$200,000 for each of fiscal years 1995 and 1996, \$150,000 for fiscal year 1997, and \$100,000 for fiscal year 1998. The Secretary shall be entitled to receive the funds and shall accept the funds.]

\* \* \* \* \*

### SECTION 3 OF THE HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

#### SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) funds should be made available for child nutrition programs to remove barriers to the participation of needy children in the school lunch program, school breakfast program, summer food service program for children, and the child [and adult] care food program under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

\* \* \* \* \*

### CHILD NUTRITION ACT OF 1966

\* \* \* \* \*

#### SPECIAL MILK PROGRAM AUTHORIZATION

##### SEC. 3. (a)(1) \* \* \*

\* \* \* \* \*

(3) For the purposes of this section “United States” means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, [the Trust Territory of the Pacific Islands] *the Commonwealth of the Northern Mariana Islands*, and the District of Columbia.

\* \* \* \* \*

#### SCHOOL BREAKFAST PROGRAM AUTHORIZATION

##### SEC. 4. (a) \* \* \*

#### APPORTIONMENT TO STATES

##### (b)(1)(A) \* \* \*

\* \* \* \* \*

(E) *FREE AND REDUCED PRICE POLICY STATEMENT.*—*After the initial submission, a school shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a*

*substantive change in the free and reduced price policy of the school. A routine change in the policy of a school, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school to submit a policy statement.*

\* \* \* \* \*

#### NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

(e)(1)【(A)】 Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research, except that the minimum nutritional requirements shall be measured by not less than the weekly average of the nutrient content of school breakfasts. Such breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 9 of the National School Lunch Act.

【(B) The Secretary shall provide through State educational agencies technical assistance and training, including technical assistance and training in the preparation of foods high in complex carbohydrates and lower-fat versions of foods commonly used in the school breakfast program established under this section, to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide through State educational agencies additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.】

\* \* \* \* \*

#### 【EXPANSION OF PROGRAM

【(f)(1)(A) As a national nutrition and health policy, it is the purpose and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance. The Secretary is hereby directed, in cooperation with State educational agencies, to carry out a program of information in furtherance of this policy.

【(i) marketing the program in a manner that expands participation in the program by schools and students; and

【(ii) improving public education and outreach efforts in language appropriate materials that enhance the public image of the program.

【(C) As used in this paragraph, the term “language appropriate materials” means materials using a language other than the English language in a case in which the language is dominant for a large percentage of individuals participating in the program.

【(2)(A) Each State educational agency shall—

[(i) provide information to school boards and public officials concerning the benefits and availability of the school breakfast program; and

[(ii) select each year, for additional informational efforts concerning the program, schools in the State—

[(I) in which a substantial portion of school enrollment consists of children from low-income families; and

[(II) that do not participate in the school breakfast program.

[(B) Not later than October 1, 1993, the Secretary shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the efforts of the Secretary and the States to increase the participation of schools in the program.

#### [STARTUP AND EXPANSION COSTS

[(g)(1) Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary \$5,000,000 for each of fiscal years 1991 through 1997, \$6,000,000 for fiscal year 1998, and \$7,000,000 for fiscal year 1999 and each subsequent fiscal year to make payments under this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds. The Secretary shall use the funds to make payments on a competitive basis and in the following order of priority (subject to other provisions of this subsection), to—

[(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

[(i) initiating a school breakfast program under this section; or

[(ii) expanding a school breakfast program; and

[(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

[(i) initiating a summer food service program for children; or

[(ii) expanding a summer food service program for children.

[(2) Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) and section 13 of the National School Lunch Act (42 U.S.C. 1761).

[(3) To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary a plan to initiate or expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to initiate or expand the programs.

[(4) In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

[(A) have in effect a State law that requires the expansion of the programs during the year;

[(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

[(C) do not have a school breakfast program available to a large number of low-income children in the State; or

[(D) serve an unmet need among low-income children, as determined by the Secretary.

[(5) In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

[(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

[(ii) that do not have a summer food service program for children available to a large number of low-income children in the State; and

[(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

[(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

[(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

[(6) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

[(7) The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

[(8) Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a school breakfast program or a summer food service program for children, respectively.

[(9) Expenditures of funds from State and local sources for the maintenance of the school breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.

[(10) As used in this subsection:

[(A) The term “eligible school” means a school—

[(i) attended by children a significant percentage of whom are members of low-income families;

[(ii)(I) as used with respect to a school breakfast program, that agrees to operate the school breakfast program established or expanded with the assistance provided under this subsection for a period of not less than 3 years; and

【(II) as used with respect to a summer food service program for children, that agrees to operate the summer food service program for children established or expanded with the assistance provided under this subsection for a period of not less than 3 years.

【(B) The term “service institution” means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)(1)(B) or (7)).

【(C) The term “summer food service program for children” means a program authorized by section 13 of such Act (42 U.S.C. 1761).】

\* \* \* \* \*

#### STATE ADMINISTRATIVE EXPENSES

SEC. 7. (a) \* \* \*

\* \* \* \* \*

【(e) The State may use a portion of the funds available under this section to assist in the administration of the commodity distribution program.】

【(f)】 (e) Each State shall submit to the Secretary for approval by October 1 of 【each year an annual plan】 *the initial fiscal year a plan* for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel. *After submitting the initial plan, a State shall only be required to submit to the Secretary for approval a substantive change in the plan.*

【(g)】 (f) Payments of funds under this section shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this Act (except section 17 of this Act) and the National School Lunch Act (except section 13 of that Act), not less than the amount expended or obligated in fiscal year 1977, and that agree to participate fully in any studies authorized by the Secretary.

【(h) The Secretary may not provide amounts under this section to a State for administrative costs incurred in any fiscal year unless the State agrees to participate in any study or survey of programs authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.) and conducted by the Secretary.】

【(i)】 (g) For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1998, there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

\* \* \* \* \*

#### REGULATIONS

SEC. 10. (a) \* \* \*

(b)【(1)】 The regulations shall not prohibit the sale of competitive foods approved by the Secretary in food service facilities or areas during the time of service of food under this Act or the National School Lunch Act if the proceeds from the sales of such foods



will inure to the benefit of the schools or of organizations of students approved by the schools.

[(2) The Secretary shall develop and provide to State agencies, for distribution to private elementary schools and to public elementary schools through local educational agencies, model language that bans the sale of competitive foods of minimal nutritional value anywhere on elementary school grounds before the end of the last lunch period.

[(3) The Secretary shall provide to State agencies, for distribution to private secondary schools and to public secondary schools through local educational agencies, a copy of regulations (in existence on the effective date of this paragraph) concerning the sale of competitive foods of minimal nutritional value.

[(4) Paragraphs (2) and (3) shall not apply to a State that has in effect a ban on the sale of competitive foods of minimal nutritional value in schools in the State.]

\* \* \* \* \*

#### PROHIBITIONS

SEC. 11. (a) In carrying out the provisions of sections 3 and 4 of this Act, [neither the Secretary nor the State shall] *the Secretary shall not* impose any requirements with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

\* \* \* \* \*

#### MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 15. For the purposes of this Act—

(1) “State” means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or [the Trust Territory of the Pacific Islands] *the Commonwealth of the Northern Mariana Islands*.

\* \* \* \* \*

(3) “School” means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, *and* (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor)[, and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico]. For purposes of clauses (A) and (B) of this paragraph, the term “nonprofit”, when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986.

\* \* \* \* \*

#### ACCOUNTS AND RECORDS

SEC. 16. (a) States, State educational agencies, schools, and nonprofit institutions participating in programs under this Act

shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this Act and the regulations hereunder. Such accounts and records shall **[at all times be available]** *be available at any reasonable time* for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of three years, as the Secretary determines is necessary.

\* \* \* \* \*

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS,  
AND CHILDREN

SEC. 17. (a) \* \* \*

(b) As used in this section—

(1) \* \* \*

\* \* \* \* \*

(15) “Homeless individual” means—

(A) an individual who lacks a fixed and regular nighttime residence; or

(B) an individual whose primary nighttime residence

is—

(i) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

(ii) an institution that provides a temporary residence for individuals intended to be institutionalized;

(iii) a temporary accommodation *of not more than 365 days* in the residence of another individual; or

(iv) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(16) “Drug abuse education” means—

(A) the provision of information concerning the dangers of drug abuse; *and*

(B) the referral of participants who are suspected drug abusers to drug abuse clinics, treatment programs, counselors, or other drug abuse professionals~~;~~ **and**.

**[(C) the provision of materials developed by the Secretary under subsection (n).]**

\* \* \* \* \*

(c)(1) \* \* \*

\* \* \* \* \*

**[(5) The Secretary shall promote the special supplemental nutrition program by producing and distributing materials, including television and radio public service announcements in English and other appropriate languages, that inform potentially eligible individuals of the benefits and services under the program.]**

(d)(1) \* \* \*

\* \* \* \* \*

[(4) The Secretary shall report biennially to Congress and the National Advisory Council on Maternal, Infant, and Fetal Nutrition established under subsection (k) on—

[(A) the income and nutritional risk characteristics of participants in the program;

[(B) participation in the program by members of families of migrant farmworkers; and

[(C) such other matters relating to participation in the program as the Secretary considers appropriate.]

(e)(1) The State agency [shall ensure that nutrition education and drug abuse education is provided] *shall provide nutrition education and may provide drug abuse education* to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education and drug abuse education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program.

(2) The Secretary shall prescribe standards to ensure that adequate nutrition education services and breastfeeding promotion and support are provided. The State agency shall provide training to persons providing nutrition education under this section. [Nutrition education and breastfeeding promotion and support shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education and breastfeeding promotion and support they have received.]

\* \* \* \* \*

(4) The State agency [shall]—

[(A) ensure that written information concerning food stamps, the program for aid to families with dependent children under part A of title IV of the Social Security Act, and the child support enforcement program under part D of title IV of the Social Security Act is provided on at least 1 occasion to each adult participant in and each applicant for the program;]

[(B)] (A) *shall* provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 under the medical assistance program established under title XIX of the Social Security Act (in this section referred to as the “medicaid program”); [and]

[(C)] (B) *shall* provide to individuals applying for the program under this section, or reapplying at the end of their certification period, written information about the medicaid program and referral to such program or to agencies authorized to determine presumptive eligibility for such program, if such individuals are not participating in such program and appear to have family income below the applicable maximum income limits for such program[.]; and

(C) *may provide a local agency with materials describing other programs for which participants in the program may be eligible.*

(5) **【The State agency shall ensure that each local agency shall】** *Each local agency shall* maintain and make available for distribution a list of local resources for substance abuse counseling and treatment.

**【(6) Each local agency may use a master file to document and monitor the provision of nutrition education services (other than the initial provision of such services) to individuals that are required, under standards prescribed by the Secretary, to be included by the agency in group nutrition education classes.】**

(f)(1)(A) Each State agency shall submit **【annually to the Secretary, by a date specified by the Secretary, a】** *to the Secretary, by a date specified by the Secretary, an initial* plan of operation and administration for a fiscal year. *After submitting the initial plan, a State shall only be required to submit to the Secretary for approval a substantive change in the plan.*

(B) To be eligible to receive funds under this section for a fiscal year, a State agency must receive the approval of the Secretary for the plan submitted for the fiscal year.

(C) The plan shall include—

(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program, to be administered in accordance with standards developed by the Secretary;

(ii) a description of the financial management system of the State agency;

**【(iii) a plan to coordinate operations under the program with special counseling services, such as the expanded food and nutrition education program, immunization programs, local programs for breastfeeding promotion, prenatal care, well-child care, family planning, drug abuse education, alcohol and drug abuse counseling and treatment, child abuse counseling, and with the aid to families with dependent children, food stamp, maternal and child health care, and medicaid programs, including medicaid programs that use coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)) (including coordination through the referral of potentially eligible women, infants, and children between the program authorized under this section and the medicaid program);】**

*(iii) a plan to coordinate operations under the program with other services or programs that may benefit participants in, and applicants for, the program;*

(iv) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants, homeless individuals, and Indians;

(v) a plan to expend funds to carry out the program during the relevant fiscal year;

(vi) a plan to provide program benefits under this section to unserved and underserved areas in the State *(including a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas)*, if sufficient funds are available to carry out this clause;

(vii) a plan **to provide program benefits under this section to eligible individuals most in need of the benefits and to provide eligible individuals not participating in the program with information on the program, the eligibility criteria for the program, and how to apply for the program, with emphasis on** *for reaching and enrolling eligible women in the early months of pregnancy, including provisions to reach and enroll eligible migrants;*

(viii) a plan to provide program benefits under this section to unserved infants and children under the care of foster parents, protective services, or child welfare authorities, including infants exposed to drugs perinatally;

**[(ix) if the State agency chooses to provide program benefits under this section to some or all eligible individuals who are incarcerated in prisons or juvenile detention facilities that do not receive Federal assistance under any program specifically established to assist pregnant women regarding their nutrition and health needs, a plan for the provision of such benefits to, and to meet the special nutrition education needs of, such individuals, which may include—**

**[(I) providing supplemental foods to such individuals that are different from those provided to other participants in the program under this section;**

**[(II) providing such foods to such individuals in a different manner than to other participants in the program under this section in order to meet the special needs of such individuals; and**

**[(III) the development of nutrition education materials appropriate for the special needs of such individuals;**

**[(x) a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas, by addressing their special needs through the adoption or revision of procedures and practices to minimize the time participants and applicants must spend away from work and the distances that participants and applicants must travel, including appointment scheduling, adjustment of clinic hours, clinic locations, or mailing of multiple vouchers;]**

**[(xi)]** *(ix)* a plan to provide nutrition education and promote breastfeeding;

**[(xii) if the State agency chooses to request the funds conversion authority established in clause (h)(5) of this section, an estimate of the increased participation which will result from its cost-saving initiative, including an explanation of how the estimate was developed; and]**

**[(xiii)]** *(x)* such other information as the Secretary **[may require]** *may reasonably require*.

**[(D)]** The Secretary may permit a State agency to submit only those parts of a plan that differ from plans submitted for previous fiscal years.]

**[(E)]** *(D)* The Secretary may not approve any plan that permits a person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program authorized under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

[(2)] A State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.]

[(3)] (2) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program and shall ensure that local programs provide priority consideration to serving migrant participants who are residing in the State for a limited period of time. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

[(4)] (3) State agencies shall submit monthly financial reports and participation data to the Secretary.

[(5)] (4) State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. Such accounts and records shall [at all times be available] *be available at any reasonable time* for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

[(6)] The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within thirty days of the approval or disapproval of the application, and any disapproval shall be accompanied with a statement of the reasons for such disapproval. Within fifteen days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application.]

[(7)] (5)(A) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

(B) State agencies may provide for the delivery of vouchers to any participant who is not scheduled for nutrition education counseling or a recertification interview through means, such as mailing, that do not require the participant to travel to the local agency to obtain vouchers. The State agency shall describe any plans for issuance of vouchers by mail in its plan submitted under paragraph (1). The Secretary may disapprove a State plan with respect to the issuance of vouchers by mail in any specified jurisdiction or part of a jurisdiction within a State only if the Secretary finds that such issuance would pose a significant threat to the integrity of the program under this section in such jurisdiction or part of a jurisdiction.

[(8)(A) The State agency shall, in cooperation with participating local agencies, publicly announce and distribute information on the availability of program benefits (including the eligibility criteria for participation and the location of local agencies operating the program) to offices and organizations that deal with significant numbers of potentially eligible individuals (including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, organizations and agencies serving homeless individuals and shelters for victims of domestic violence, and religious and community organizations in low income areas).

[(B) The information shall be publicly announced by the State agency and by local agencies at least annually.

[(C) The State agency and local agencies shall distribute the information in a manner designed to provide the information to potentially eligible individuals who are most in need of the benefits, including pregnant women in the early months of pregnancy.

[(D) Each local agency operating the program within a hospital and each local agency operating the program that has a cooperative arrangement with a hospital shall—

[(i) advise potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services, or accompany a child under the age of 5 who receives well-child services, of the availability of program benefits; and

[(ii) to the extent feasible, provide an opportunity for individuals who may be eligible to be certified within the hospital for participation in such program.]

[(9)] (6)(A) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

(B) Any State agency that must suspend or terminate benefits to any participant during the participant's certification period due to a shortage of funds for the program shall first issue a notice to such participant. [Such notice shall include, in addition to other information required by the Secretary, the categories of participants whose benefits are being suspended or terminated due to such shortage.]

[(10)] (7) If an individual certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that individual's certification of eligibility shall remain valid for the period for which the individual was originally certified.

[(11)] (8) The Secretary shall establish standards for the proper, efficient, and effective administration of the program[, including standards that will ensure sufficient State agency staff]. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to implement the approved plan of operation and administration under this subsection, the Secretary may withhold such amounts of the State agency's funds for nutrition services and administration as the Secretary deems appropriate. Upon correction

of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

[(12)] (9) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate. [Products specifically designed for pregnant, postpartum, and breastfeeding women, or infants shall be available at the discretion of the Secretary if the products are commercially available or are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary.]

[(13)] (10) A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns, and, in the case of homeless individuals, the special needs and problems of such individuals.

[(14)] (11) The State agency [shall] *may* (A) provide nutrition education, breastfeeding promotion, and drug abuse education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

[(15)] (12) If a State agency determines that a member of a family has received an overissuance of food benefits under the program authorized by this section as the result of such member intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such member an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective.

[(16)] (13) To be eligible to participate in the program authorized by this section, a manufacturer of infant formula that supplies formula for the program shall—

(A) register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.); and

(B) before bidding for a State contract to supply infant formula for the program, certify with the State health department that the formula complies with such Act and regulations issued pursuant to such Act.

[(17)] (14) The State agency may adopt methods of delivering benefits to accommodate the special needs and problems of homeless individuals [and to accommodate the special needs and problems of individuals who are incarcerated in prisons or juvenile detention facilities].

[(18)] (15) Notwithstanding subsection (d)(2)(A)(i), not later than July 1 of each year, a State agency may implement income eligibility guidelines under this section concurrently with the implementation of income eligibility guidelines under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).



[(19)] (16) Each local agency participating in the program under this section [shall] *may* provide information about other potential sources of food assistance in the local area to individuals who apply in person to participate in the program under this section, but who cannot be served because the program is operating at capacity in the local area.

[(20)] (17) The State agency shall adopt policies that—

(A) require each local agency to attempt to contact each pregnant woman who misses an appointment to apply for participation in the program under this section, in order to reschedule the appointment, unless the phone number and the address of the woman are unavailable to such local agency; and

(B) in the case of local agencies that do not routinely schedule appointments for individuals seeking to apply or be recertified for participation in the program under this section, require each such local agency to schedule appointments for each employed individual seeking to apply or be recertified for participation in such program so as to minimize the time each such individual is absent from the workplace due to such application or request for recertification.

[(21)] (18) Each State agency shall conduct monitoring reviews of each local agency at least biennially.

[(22)] In the State plan submitted to the Secretary for fiscal year 1994, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for whom such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary.]

[(23)] (19) A State agency may use funds recovered as a result of violations in the food delivery system of the program in the year in which the funds are collected for the purpose of carrying out the program.

[(24)] (20) The Secretary and the Secretary of Health and Human Services shall carry out an initiative to assure that, in a case in which a State medicaid program uses coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)), coordination between the program authorized by this section and the medicaid program is continued, including—

(A) the referral of potentially eligible women, infants, and children between the 2 programs; and

(B) the timely provision of medical information related to the program authorized by this section to agencies carrying out the program.

(g)(1) \* \* \*

\* \* \* \* \*

(5) Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed \$5,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, preparing [the report required under subsection (d)(4)] *reports on pro-*

*gram participant characteristics*, providing technical assistance to improve State agency administrative systems, administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations, and carrying out technical assistance and research evaluation projects of the programs under this section.

[(6) Upon the completion of the 1990 decennial census, the Secretary, in coordination with the Secretary of Commerce, shall make available an estimate, by State and county (or equivalent political subdivision) of the number of women, infants, and children who are members of families that have incomes below the maximum income limit for participation in the program under this section.]

(h)(1) \* \* \*

\* \* \* \* \*

(4) The Secretary shall—

(A) \* \* \*

\* \* \* \* \*

(E) not later than 1 year after the date of enactment of this subparagraph, develop uniform requirements for the collection of data regarding the incidence and duration of breastfeeding among participants in the program [and, on development of the uniform requirements, require each State agency to report the data for inclusion in the report to Congress described in subsection (d)(4)].

\* \* \* \* \*

(8)[(A) No State may receive its allocation under this subsection unless on or before August 30, 1989 (or a subsequent date established by the Secretary for any State) such State has—

[(i) examined the feasibility of implementing cost containment measures with respect to procurement of infant formula, and, where practicable, other foods necessary to carry out the program under this section; and

[(ii) initiated action to implement such measures unless the State demonstrates, to the satisfaction of the Secretary, that such measures would not lower costs or would interfere with the delivery of formula or foods to participants in the program.]

[(B)] (A)(i) Except as provided in [subparagraphs (C), (D), and (E)(iii), in carrying out subparagraph (A),] *subparagraphs (B) and (C)(iii)*, any State that provides for the purchase of foods under the program at retail grocery stores shall, with respect to the procurement of infant formula, use—

(I) a competitive bidding system; or

(II) any other cost containment measure that yields savings equal to or greater than savings generated by a competitive bidding system when such savings are determined by comparing the amounts of savings that would be provided over the full term of contracts offered in response to a single invitation to submit both competitive bids and bids for other cost containment systems for the sale of infant formula.

(ii) In determining whether a cost containment measure other than competitive bidding yields equal or greater savings, the State, in accordance with regulations issued by the Secretary, may take into account other cost factors (in addition to rebate levels and procedures for adjusting rebate levels when wholesale price levels rise), such as—

(I) the number of infants who would not be expected to receive the contract brand of infant formula under a competitive bidding system;

(II) the number of cans of infant formula for which no rebate would be provided under another rebate system; and

(III) differences in administrative costs relating to the implementation of the various cost containment systems (such as costs of converting a computer system for the purpose of operating a cost containment system and costs of preparing participants for conversion to a new or alternate cost containment system).

[(C) In the case of any State that has a contract in effect on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, subparagraph (B) shall not apply to the program operated by such State under this section until the term of such contract, as such term is specified by the contract as in effect on such date, expires. In the case of any State that has more than 1 such contract in effect on the date of the enactment of such Act, subparagraph (B) shall not apply until the term of the contract with the latest expiration date, as such term is specified by such contract as in effect on the date of the enactment of such Act, expires.]

[(D)] (B)(i) The Secretary shall waive the requirement of subparagraph [(B)] (A) in the case of any State that demonstrates to the Secretary that—

(I) compliance with subparagraph [(B)] (A) would be inconsistent with efficient or effective operation of the program operated by such State under this section; or

(II) the amount by which the savings yielded by an alternative cost containment system would be less than the savings yielded by a competitive bidding system is sufficiently minimal that the difference is not significant.

(ii) The Secretary shall prescribe criteria under which a waiver may be granted pursuant to clause (i).

(iii) The Secretary shall provide information on a timely basis to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on waivers that have been granted under clause (i).

[(E)] (C)(i) The Secretary shall provide technical assistance to small Indian State agencies carrying out this paragraph in order to assist such agencies to achieve the maximum cost containment savings feasible.

(ii) The Secretary shall also provide technical assistance, on request, to State agencies that desire to consider a cost containment system that covers more than 1 State agency.

(iii) The Secretary may waive the requirement of subparagraph **[(B)]** (A) in the case of any Indian State agency that has not more than 1,000 participants.

**[(F)]** (D) No State may enter into a cost containment contract (in this subparagraph referred to as the original contract") that prescribes conditions that would void, reduce the savings under, or otherwise limit the original contract if the State solicited or secured bids for, or entered into, a subsequent cost containment contract to take effect after the expiration of the original contract.

**[(G)(i)]** (E) The Secretary shall offer to solicit bids on behalf of State agencies regarding cost-containment contracts to be entered into by infant formula manufacturers and State agencies. The Secretary shall make the offer to State agencies once every 12 months. Each such bid solicitation shall only take place if two or more State agencies request the Secretary to perform the solicitation. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

**[(ii)]** If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a contract for each such group. In determining the size of the groups of agencies, the Secretary shall, to the extent practicable, take into account the need to maximize the number of potential bidders so as to increase competition among infant formula manufacturers.

**[(iii)]** State agencies that elect to authorize the Secretary to perform the bid solicitation and selection process on their behalf and enter into the resulting containment contract shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

**[(iv)]** In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

**[(v)(I)]** Except as provided in subclause (II), the term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be not less than 2 years.

**[(II)]** If the law of a State regarding the duration of contracts is inconsistent with subclause (I), the Secretary shall permit a 1-year contract, with the option provided to the State to extend the contract for additional years.

**[(vi)]** In prescribing specifications for the bids, the Secretary shall ensure that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

[(vii) The Secretary shall also develop procedures for—

[(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

[(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

[(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

[(viii) The bid solicitation and selection process on behalf of the State agencies shall be conducted in accordance with any procedures the Secretary deems necessary for the effective and efficient administration of the bid solicitation and selection process and consistent with the requirements of this subparagraph. The procedures established by the Secretary shall ensure that—

[(I) the bid solicitation and selection process is conducted in a manner providing full and open competition; and

[(II) the bid solicitation and selection process is free of any real or apparent conflict of interest.”

[(ix) Not later than September 30, 1996, the Secretary shall offer to solicit bids on behalf of State agencies regarding cost containment contracts to be entered into by infant cereal manufacturers and State agencies. In carrying out this clause, the Secretary shall, to the maximum extent feasible, follow the procedures prescribed in this subparagraph regarding offers made by the Secretary with regard to soliciting bids regarding infant formula cost containment contracts. The Secretary may carry out this clause without issuing regulations.]

[(H)] (F) In soliciting bids for contracts for infant formula for the program authorized by this section, the Secretary shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited for milk-based and soy-based infant formula, separately, except where the Secretary determines that such solicitation procedures are not in the best interest of the program.

[(I)] (G) To reduce the costs of any supplemental foods, the Secretary—

[(i) shall promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

[(ii) shall encourage and promote (but not require) the purchase of supplemental foods other than infant formula under cost containment procedures;

[(iii) shall inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency’s use of cost containment procedures;

[(iv) shall encourage (but not require) the joint purchase of supplemental foods other than infant formula under proce-

dures specified in subparagraph (B), if the Secretary determines that—

【(I) the anticipated savings are expected to be significant;

【(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures; and

【(III) the procedures would be consistent with the purposes of the program; and

【(v) may】 *Secretary may* make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

【(J)】 *(H)(i)* Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program authorized by this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts, for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress for up to 2 years from the date the bids are opened and shall be subject to a civil penalty of up to \$100,000,000, as determined by the Secretary to provide restitution to the program for harm done to the program. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges.

(ii) The Secretary shall determine the length of the disqualification, and the amount of the civil penalty referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

【(K)】 *(I)* Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.

【(L)】 *(J)* A State shall not incur any interest liability to the Federal Government on rebate funds for infant formula and other foods if all interest earned by the State on the funds is used for program purposes.

【(M)(i) The Secretary shall establish pilot projects in at least 1 State, with the consent of the State, to determine the feasibility and cost of requiring States to carry out a system for using univer-

sal product codes to assist retail food stores that are vendors under the program in providing the type of infant formula that the participants in the program are authorized to obtain. In carrying out the projects, the Secretary shall determine whether the system reduces the incidence of incorrect redemptions of low-iron formula or brands of infant formula not authorized to be redeemed through the program, or both.

[(ii) The Secretary shall provide a notification to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding whether the system is feasible, is cost-effective, reduces the incidence of incorrect redemptions described in clause (i), and results in any additional costs to States.

[(iii) The system shall not require a vendor under the program to obtain special equipment and shall not be applicable to a vendor that does not have equipment that can use universal product codes.]

\* \* \* \* \*

(10)(A) For each of fiscal years 1995 through 1998, the Secretary shall use for the purposes specified in subparagraph (B), \$10,000,000 or the amount of nutrition services and administration funds for the prior fiscal year that has not been obligated, whichever is less.

(B) Funds under subparagraph (A) shall be used for—

(i) development of infrastructure for the program under this section, including management information systems; *and*

(ii) special State projects of regional or national significance to improve the services of the program under this section[; and].

[(iii) special breastfeeding support and promotion projects, including projects to assess the effectiveness of particular breastfeeding promotion strategies and to develop State or local agency capacity or facilities to provide quality breastfeeding services.]

\* \* \* \* \*

(k)(1) \* \* \*

\* \* \* \* \*

(3) The [Secretary shall designate] *Council shall elect* a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

\* \* \* \* \*

[(n)(1) The Secretary, before the end of the 6-month period beginning on the date of the enactment of the Anti-Drug Abuse Act of 1988, shall, directly or through grant or contract, conduct a study with respect to appropriate methods of drug abuse education instruction.

[(2) The Secretary shall—

[(A) directly, or through grant or contract, prepare materials for purposes of drug abuse education provided under this section; and

[(B) distribute the materials prepared under subparagraph (A) to each State agency for distribution to local agencies participating in the program under this section.

[(3) There is authorized to be appropriated—

[(A) \$500,000 for the fiscal year 1989 for purposes of carrying out the study required by paragraph (1);

[(B) \$2,750,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year for purposes of preparing drug abuse education materials as required by paragraph (2)(A); and

[(C) \$6,750,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year for purposes of—

[(i) distributing drug abuse education materials as required by paragraph (2)(B); and

[(ii) making referrals under drug abuse education programs.

[(4) The State agency, in each fiscal year, shall provide drug abuse education to participants in the program under this section commensurate with amounts appropriated for such fiscal year pursuant to the authorizations contained in paragraph (3).

[(o)(1) Subject to the availability of funds appropriated for the purpose of carrying out this subsection, the Secretary is authorized to establish a demonstration program for the establishment of clinics for participants in the program under this section at community colleges that offer nursing education programs. In determining the location of clinics under this subsection, the Secretary shall consider—

[(A) the location of the community college under consideration;

[(B) its accessibility to individuals eligible to participate in the special supplemental nutrition program under this section; and

[(C) its willingness to operate the clinic during nontraditional hours.

[(2) The Secretary shall, from funds appropriated for the purpose of carrying out this subsection—

[(A) evaluate any demonstration program carried out under paragraph (1); and

[(B) submit to the Congress a report containing the results of such evaluation.

[(3) There is authorized to be appropriated for purposes of carrying out this subsection \$1,000,000 for the fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

[(p)(1) The Secretary is authorized to make grants to State agencies for the purpose of improving and updating information and data systems used for purposes of carrying out programs under this section.

[(2) Any State that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, and containing or accompanied by such information, as the Secretary may reasonably require. Grants shall be awarded based on the need demonstrated by States in their applications.



[(3) There is authorized to be appropriated for purposes of carrying out this subsection \$2,000,000 for the fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994.]

(n) *DISQUALIFICATION OF VENDORS WHO ARE DISQUALIFIED UNDER THE FOOD STAMP PROGRAM.*—

(1) *IN GENERAL.*—*The Secretary shall issue regulations providing criteria for the disqualification under this section of an approved vendor that is disqualified from accepting benefits under the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).*

(2) *TERMS.*—*A disqualification under paragraph (1)—*

*(A) shall be for the same period as the disqualification from the program referred to in paragraph (1);*

*(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and*

*(C) shall not be subject to judicial or administrative review.*

SEC. 18. (a) The Secretary is hereby authorized and directed to make cash grants to State educational agencies for the purpose of conducting experimental or demonstration projects to teach schoolchildren the nutritional value of foods and the relationship of nutrition to human health.

[(b) In order to carry out the program, provided for in subsection (a) of this section, there is hereby authorized to be appropriated not to exceed \$1,000,000 annually. The Secretary shall withhold not less than 1 per centum of any funds appropriated under this section and shall expend these funds to carry out research and development projects relevant to the purpose of this section, particularly to develop materials and techniques for the innovative presentation of nutritional information.]

#### NUTRITION EDUCATION AND TRAINING

SEC. 19. (a) Congress finds [that—

[(1) the proper nutrition of the Nation's children is a matter of highest priority;

[(2) the lack of understanding of the principles of good nutrition and their relationship to health can contribute to a child's rejection of highly nutritious foods and consequent plate waste in school food service operations;

[(3) many school food service personnel have not had adequate training in food service management skills and principles, and many teachers and school food service operators have not had adequate training in the fundamentals of nutrition or how to convey this information so as to motivate children to practice sound eating habits;

[(4) parents exert a significant influence on children in the development of nutritional habits and lack of nutritional knowledge on the part of parents can have detrimental effects on children's nutritional development; and

[(5) there is a need to create opportunities for children to learn about the importance of the principles of good nutrition in their daily lives and how these principles are applied in the school cafeteria.] *that effective dissemination of scientifically*

*valid information to children participating or eligible to participate in the school lunch and related child nutrition programs should be encouraged.*

#### PURPOSE

(b) It is the purpose of this section to **encourage effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs by establishing** *establish* a system of grants to State educational agencies for the development of comprehensive nutrition education and training programs. Such nutrition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

\* \* \* \* \*

#### USE OF FUNDS

(f)(1)**[(A)]** The funds made available under this section may, under guidelines established by the Secretary, be used by State educational agencies for—

**[(i)]** (A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs;

**[(ii)]** (B) undertaking an assessment of the nutrition education needs of the State;

**[(iii)]** (C) developing a State plan of operation and management for nutrition education;

**[(iv)]** (D) applying for and carrying out planning and assessment grants;

**[(v)]** (E) pilot projects and related purposes;

**[(vi)]** (F) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel;

**[(vii)]** (G) coordinating and promoting nutrition education and training activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs);

**[(viii)]** (H) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this section;

**[(ix)]** providing funding for a nutrition component that can be offered in consumer and homemaking education programs as well as in the health education curriculum offered to children in kindergarten through grade 12;

**[(x)]** instructing teachers, school administrators, or other school staff on how to promote better nutritional health and to motivate children from a variety of linguistic and cultural backgrounds to practice sound eating habits;

**[(xi)]** developing means of providing nutrition education in language appropriate materials to children and families of children through after-school programs;

**[(xii)]** training in relation to healthy and nutritious meals;

[(xiii) creating instructional programming, including language appropriate materials and programming, for teachers, school food service personnel, and parents on the relationships between nutrition and health and the role of the Food Guide Pyramid established by the Secretary;

[(xiv) funding aspects of the Strategic Plan for Nutrition and Education issued by the Secretary;

[(xv) encouraging public service advertisements, including language appropriate materials and advertisements, to promote healthy eating habits for children;

[(xvi) coordinating and promoting nutrition education and training activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, child nutrition programs);

[(xvii) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purpose of this section;

[(xviii) increasing public awareness of the importance of breakfasts for providing the energy necessary for the cognitive development of school-age children;

[(xix) coordinating and promoting nutrition education and training activities carried out under child nutrition programs, including the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) and the child and adult care food program established under section 17 of such Act (42 U.S.C. 1766); and]

[(xx)] (I) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials[.]; and

(J) other appropriate related activities, as determined by the State.

[(B) As used in this paragraph, the term “language appropriate” used with respect to materials, programming, or advertisements means materials, programming, or advertisements, respectively, using a language other than the English language in a case in which the language is dominant for a large percentage of individuals participating in the program.]

[(2) Any State desiring to receive grants authorized by this section may, from the funds appropriated to carry out this section, receive a planning and assessment grant for the purposes of carrying out the responsibilities described in clauses (A), (B), (C), and (D) of paragraph (1) of this subsection. Any State receiving a planning and assessment grant, may, during the first year of participation, be advanced a portion of the funds necessary to carry out such responsibilities: *Provided*, That in order to receive additional funding, the State must carry out such responsibilities.]

[(3)] (2) A State agency may use an amount equal to not more than 15 percent of the funds made available through a grant under this section for expenditures for administrative purposes in connection with the program authorized under this section if the State makes available at least an equal amount for administrative or program purposes in connection with the program.

[(4) Nothing in this section shall prohibit State or local educational agencies from making available or distributing to adults

nutrition education materials, resources, activities, or programs authorized under this section.】

#### ACCOUNTS, RECORDS, AND REPORTS

(g)(1) State educational agencies participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall 【at all times be available】 *be available at any reasonable time* for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines to be necessary.

(2) State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.

#### STATE COORDINATORS FOR NUTRITION; STATE PLAN

(h)(1) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State 【as provided in paragraph (2) of this subsection】, prepare a State plan 【as provided in paragraph (3) of this subsection】, and coordinate programs under this Act with all other nutrition education programs provided by the State with Federal or State funds.

(2) Upon receipt of funds authorized by this section, the State coordinator shall prepare an itemized budget and assess the nutrition education and training needs of the State. 【Such assessment shall include, but not be limited to, the identification and location of all students in need of nutrition education. The assessment shall also identify State and local individual, group, and institutional resources within the State for materials, facilities, staffs, and methods related to nutrition education.】

【(3) Within nine months after the award of the planning and assessment grant, the State coordinator shall develop, prepare, and furnish the Secretary, for approval, a comprehensive plan for nutrition education within such State. The Secretary shall act on such plan not later than sixty days after it is received. Each such plan shall describe (A) the findings of the nutrition education needs assessment within the State; (B) provisions for coordinating the nutrition education program carried out with funds made available under this section with any related publicly supported programs being carried out within the State; (C) plans for soliciting the advice and recommendations of the State educational agency, interested teachers, food nutrition professionals and paraprofessionals, school food service personnel, administrators, representatives from consumer groups, parents, and other individuals concerned with the improvement of child nutrition; (D) plans for reaching all students in the State with instruction in the nutritional value of foods and the relationships among food, nutrition, and health, for training food service personnel in the principles and skills of food serv-

ice management, and for instructing teachers in sound principles of nutrition education; (E) plans for using, on a priority basis, the resources of the land-grant colleges eligible to receive funds under the Act of July 2, 1862, or the Act of August 30, 1890, including the Tuskegee Institute; and (F) a comprehensive plan for providing nutrition education during the first fiscal year beginning after the submission of the plan and the succeeding 4 fiscal years. To the maximum extent practicable, the State's performance under such plan shall be reviewed and evaluated by the Secretary on a regular basis, including the use of public hearings. Each plan developed as required by this section shall be updated on an annual basis.】

#### APPROPRIATIONS AUTHORIZED

(i)(1) For the fiscal years beginning October 1, 1977, and October 1, 1978, grants to the States for the conduct of nutrition education and information programs shall be based on a rate of 50 cents for each child enrolled in schools or in institutions within the State, except that no State shall receive an amount less than \$75,000 per year.

(2)(A) Out of any moneys in the Treasury not otherwise appropriated, and in addition to any amounts otherwise made available for fiscal year 1995, the Secretary of the Treasury shall provide to the Secretary \$1,000 for fiscal year 1995 and \$10,000,000 for fiscal year 1996 【and each succeeding fiscal year】 for making grants under this section to each State for the conduct of nutrition education and training programs. The Secretary shall be entitled to receive the funds and shall accept the funds.

\* \* \* \* \*

#### (3) FISCAL YEARS 1997 THROUGH 2002.—

(A) *IN GENERAL.*—*There are authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 1997 through 2002.*

#### (B) GRANTS.—

(i) *IN GENERAL.*—*Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than \$75,000 per fiscal year.*

(ii) *INSUFFICIENT FUNDS.*—*If the amount made available for any fiscal year is insufficient to pay the amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.*

【(3)】 (4) Funds made available to any State under this section shall remain available to the State for obligation in the fiscal year succeeding the fiscal year in which the funds were received by the State.

【(4)】 (5) Enrollment data used for purposes of this subsection shall be the latest available as certified by the Department of Education.

【(j)(1) The Secretary shall assess the nutrition education and training program carried out under this section to determine what nutrition education needs are for children participating under the

National School Lunch Act in the school lunch program, the summer food service program, and the child care food program.

[(2) The assessment required by paragraph (1) shall be completed not later than October 1, 1990.]

\* \* \* \* \*



## **TITLE IV—COMMITTEE ON WAYS AND MEANS: WELFARE REFORM**

### **SEC. 4001. SHORT TITLE.**

This title may be cited as the “Personal Responsibility and Work Opportunity Act of 1996”.

### **SEC. 4002. TABLE OF CONTENTS.**

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## Subtitle A—Block Grants for Temporary Assistance for Needy Families

### SEC. 4101. 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  $\frac{1}{2}$  of the mothers who never married received AFDC while only  $\frac{1}{5}$  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 4103(a) of this Act) is intended to address the crisis.

#### **SEC. 4102. REFERENCE TO SOCIAL SECURITY ACT.**

Except as otherwise specifically provided, wherever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

#### **SEC. 4103. 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 4803(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 (including provision of education and counseling (including abstinence-based programs) and pre-pregnancy health services) 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.

“(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.

“(iii) The document shall set forth objective criteria for the delivery of benefits and the determination of eligibility and for fair and equitable treatment, including an explanation of how the State will provide opportunities for recipients who have been adversely affected to be heard in a State administrative or appeal process.

“(2) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.

“(3) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD PROTECTION PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child protection program under the State plan approved under part B.

“(4) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations—

“(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and

“(B) have had at least 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.

“(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)  $\frac{1}{3}$  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)  $\frac{4}{3}$  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 1997 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 1998, 1999, and 2000, a grant in an amount equal to the sum of—

“(I) the amount (if any) required to be paid to the State under this paragraph for the immediately preceding fiscal year; and

“(II) 2.5 percent of the sum of—

“(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.

“(ii) STATE MUST QUALIFY IN FISCAL YEAR 1997.—Notwithstanding clause (i), a State shall not be a qualifying State for any fiscal year after 1997 by reason of clause (i) if the State is not a qualifying State for fiscal year 1997 by reason of clause (i).

“(iii) CERTAIN STATES DEEMED QUALIFYING STATES.—For purposes of this paragraph, a State is deemed to be a qualifying State for fiscal years 1997, 1998, 1999, and 2000 if—

“(I) the level of welfare spending per poor person by the State for fiscal year 1996 is less than 35 percent of the national average level of State welfare spending per poor person for fiscal year 1996; or

“(II) the population of the State increased by more than 10 percent from April 1, 1990 to July 1, 1994, 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 1997, 1998, 1999, and 2000 such sums as are necessary for grants under this paragraph, in a total amount not to exceed \$800,000,000.

“(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).

“(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 \$200,000,000; 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) 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 1997, 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  $\frac{1}{12}$  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 1997 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)  $\frac{1}{12}$  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 subtitles D and J of the Personal Responsibility and Work Opportunity 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 subtitles D and J of the Personal Responsibility and Work Opportunity 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 any or all of the following provisions of law:

“(A) Part B or E of this title.

“(B) Title XX of this Act.

“(C) The Child Care and Development Block Grant Act of 1990.

“(2) APPLICABLE RULES.—Any amount paid to the State under this part that is used to carry out a State program pursuant to a provision of law specified 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:

<b>“If the fiscal year is:</b>	<b>The minimum participation rate is:</b>
1996 .....	15
1997 .....	20
1998 .....	25
1999 .....	30
2000 .....	35
2001 .....	40
2002 or thereafter .....	50.

“(2) **2-PARENT FAMILIES.**—A State to which a grant is made under section 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:

<b>“If the fiscal year is:</b>	<b>The minimum participation rate is:</b>
1996 .....	50
1997 .....	75
1998 .....	75
1999 or thereafter .....	90.

“(b) **CALCULATION OF PARTICIPATION RATES.**—

“(1) **ALL FAMILIES.**—

“(A) **AVERAGE MONTHLY RATE.**—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

“(B) **MONTHLY PARTICIPATION RATES.**—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

“(i) the number of families receiving assistance under the State program funded under this part that include an adult who is engaged in work for the month; divided by

“(ii) the amount by which—

“(I) the number of families receiving such assistance during the month that include an adult receiving such assistance; exceeds

“(II) the number of families receiving such assistance that are subject in such month to a 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 option, include families receiving assistance under a tribal family assistance plan approved under section 412.

“(5) STATE OPTION FOR PARTICIPATION REQUIREMENT EXEMPTIONS.—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).

“(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):

<b>If the month is in fiscal year:</b>	<b>The minimum average number of hours per week is:</b>
1996 .....	20
1997 .....	20
1998 .....	20
1999 or thereafter .....	25.

“(2) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(B)(i), an adult is engaged in work for a month in a fiscal year if the adult is making progress in 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).

“(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 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 PAR-

TICIPATION 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.—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 6 years of age, and the adult proves that the adult has a demonstrated inability (as determined by the State) to obtain needed child care, for 1 or more of the following reasons:

“(A) Unavailability of appropriate child care within a reasonable distance from the individual’s home or work site.

“(B) Unavailability or unsuitability of informal child care by a relative or under other arrangements.

“(C) Unavailability of appropriate and affordable formal child care arrangements.

“(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 adult in a work activity described in subsection (d) which is funded, in whole or in part, by funds provided by the Federal Government shall be employed or assigned—

“(A) when any other individual is on layoff from the same or any substantially equivalent job; or

“(B) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult described in paragraph (1).

“(3) 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, unless the family includes—

“(A) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

“(B) a pregnant individual.

“(2) 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 VOUCHERS.—Subparagraph (A) shall not apply to vouchers which are provided in lieu of cash benefits and which may be used only to pay for particular goods and services specified by the State as suitable for the care of the child involved.

“(D) 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.

“(E) 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).

“(F) SUBSTITUTION OF FAMILY CAPS IN EFFECT UNDER WAIVERS.—Subparagraph (A) shall not apply to a State—

“(i) if, as of the date of the enactment of this part, there is 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 subtitle A 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) for so long as the State continues to implement such policy under the State program funded under this part, under rules prescribed by the State.

“(3) REDUCTION OR ELIMINATION OF ASSISTANCE FOR NON-COOPERATION 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 from the assistance that would otherwise be provided to the family of the individual under the State program funded under this part the share of such assistance attributable to the individual; and

“(B) may deny the family any assistance under the State program.

“(4) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—

“(A) IN GENERAL.—A State to which a grant is made under section 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, unless the State agency determines that the individual’s current living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a 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) 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) 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) INCOME SECURITY PAYMENTS NOT TO BE DISREGARDED IN DETERMINING THE AMOUNT OF ASSISTANCE TO BE PROVIDED TO A FAMILY.—If a State to which a grant is made under section 403 uses any part of the grant to provide assistance for any individual who is receiving benefits, or on behalf of whom benefits are paid, under a State plan for old-age assistance approved under section 2, under section 202, 205(j)(1), 223, or 228, under a State program funded under part E that provides cash payments for foster care, or under the supplemental security income program under title XVI, then the State may disregard the payment in determining the amount of assistance

to be provided under the State program funded under this part, from funds provided by the Federal Government, to the family of which the individual is a member.

“(13) 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 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 increased earnings from employment or as a result of the collection or increased collection of child or spousal support, or a combination thereof, having 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.

“(14) MEDICAL ASSISTANCE REQUIRED TO BE PROVIDED FOR ALL RECIPIENTS OF ASSISTANCE UNDER THIS PART.—A State to which a grant is made under section 403 shall take such action as may be necessary to ensure that each recipient of assistance under the State program funded under this part is eligible for medical assistance under the State’s plan approved under title XIX (or, if applicable, title XV) to the extent that the health care costs of the recipient are not covered by other health insurance.

“(b) ALIENS.—For special rules relating to the treatment of aliens, see section 4402 of the Personal Responsibility and Work Opportunity Act of 1996.

**“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 quar-

ter 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.

“(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 required 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) the 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 this part; 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 the 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 4402 of the Personal Responsibility and Work Opportunity Act of 1996.

“(ii) APPLICABLE PERCENTAGE.—The term ‘applicable percentage’ means for fiscal years 1997 through 2001, 75 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 non-compliance 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 (8)(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 EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.—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.

“(11) FAILURE TO PROVIDE MEDICAL ASSISTANCE TO FAMILIES BECOMING INELIGIBLE FOR ASSISTANCE UNDER THIS PART DUE TO INCREASED EARNINGS FROM EMPLOYMENT OR COLLECTION OF CHILD SUPPORT.—

“(A) IN GENERAL.—If the Secretary determines that a State program funded under this part is not in compliance with section 408(a)(13) for a 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 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.

“(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 (7), (8), or (11) 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 correct 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, and 2000, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under subparagraph (B), and shall reduce the grant payable under section 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 man-

ner 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 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) REPORT ON CIRCUMSTANCES OF CERTAIN CHILDREN AND FAMILIES.—

“(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committees on Ways and Means and on Economic and Educational Opportunities of the House of Representatives and to the Committees on Finance and on Labor and Resources of the Senate annual reports that examine in detail the matters described in paragraph (2) with respect to each of the following groups for the period after such enactment:

“(A) Individuals who were children in families that have become ineligible for assistance under a State program funded under this part by reason of having reached a time limit on the provision of such assistance.

“(B) Families that include a child who is ineligible for assistance under a State program funded under this part by reason of section 408(a)(2).

“(C) Children born after such date of enactment to parents who, at the time of such birth, had not attained 20 years of age.

“(D) Individuals who, after such date of enactment, became parents before attaining 20 years of age.

“(2) MATTERS DESCRIBED.—The matters described in this paragraph are the following:

“(A) The percentage of each group that has dropped out of secondary school (or the equivalent), and the percentage of each group at each level of educational attainment.

“(B) The percentage of each group that is employed.

“(C) The percentage of each group that has been convicted of a crime or has been adjudicated as a delinquent.

“(D) The rate at which the members of each group are born, or have children, out-of-wedlock, and the percentage of each group that is married.

“(E) The percentage of each group that continues to participate in State programs funded under this part.

“(F) The percentage of each group that has health insurance provided by a private entity (broken down by whether the insurance is provided through an employer or otherwise), the percentage that has health insurance provided by an agency of government, and the percentage that does not have health insurance.

“(G) The average income of the families of the members of each group.

“(H) Such other matters as the Secretary deems appropriate.

“(h) FUNDING OF STUDIES AND DEMONSTRATIONS.—

“(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$15,000,000 for each fiscal year specified in section 403(a)(1) for the purpose of paying—

“(A) the cost of conducting the research described in subsection (a);

“(B) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b);

“(C) the Federal share of any State-initiated study approved under subsection (f); and

“(D) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to this part, that are in effect or approved under section 1115 as of September 30, 1995, and are continued after such date.

“(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

“(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

“(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

“(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 subtitle A 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 1996, 1997, 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, 1995) 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 4103(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, 1995) 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 4103(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. ASSISTANT SECRETARY FOR FAMILY SUPPORT.**

“The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.

**“SEC. 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.—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) 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, B, 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, B, 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, B, 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 plus the discretionary ceiling amount with respect to the territory, reduced for the fiscal year in accordance with subsection (f).

“(3) **MANDATORY CEILING AMOUNT.**—The term ‘mandatory ceiling amount’ means—

“(A) \$105,538,000 with respect to for Puerto Rico;

“(B) \$4,902,000 with respect to Guam;

“(C) \$3,742,000 with respect to the Virgin Islands; and

“(D) \$1,122,000 with respect to American Samoa.

“(4) **DISCRETIONARY CEILING AMOUNT.**—The term ‘discretionary ceiling amount’ means, with respect to a territory and a fiscal year, the total amount appropriated pursuant to subsection (d)(3) for the fiscal year for payment to the territory.

“(5) **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) DISCRETIONARY GRANTS.—

“(1) IN GENERAL.—The Secretary shall make a grant to each territory for any fiscal year in the amount appropriated pursuant to paragraph (3) for the fiscal year for payment to the territory.

“(2) USE OF GRANT.—Any territory to which a grant is made under paragraph (1) may expend the amount under any program operated or funded under any provision of law specified in subsection (a).

“(3) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under paragraph (1), there are authorized to be appropriated to the Secretary for each fiscal year—

“(A) \$7,951,000 for payment to Puerto Rico;

“(B) \$345,000 for payment to Guam;

“(C) \$275,000 for payment to the Virgin Islands; and

“(D) \$190,000 for payment to American Samoa.

“(e) 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.

“(f) 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. 4104. 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 4103(a) of this Act).

(B) Any other program established or modified under subtitle A, B, or F of this title, 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. 4105. 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. 4106. 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. 4107. 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. 4108. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.**

(a) **AMENDMENTS TO TITLE II.**—

(1) Section 205(c)(2)(C)(vi) (42 U.S.C. 405(c)(2)(C)(vi)), as so redesignated by section 321(a)(9)(B) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(A) by inserting “an agency administering a program funded under part A of title IV or” before “an agency operating”; and

(B) by striking “A or D of title IV of this Act” and inserting “D of such title”.

(2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is amended by inserting “under a State program funded under” before “part A of title IV”.

(b) **AMENDMENTS TO PART D OF TITLE IV.**—

(1) Section 451 (42 U.S.C. 651) is amended by striking “aid” and inserting “assistance under a State program funded”.

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) by striking “aid to families with dependent children” and inserting “assistance under a State program funded under part A”;

(B) by striking “such aid” and inserting “such assistance”; and

(C) by striking “under section 402(a)(26) or” 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”.

(c) REPEAL OF PART F OF TITLE IV.—Part F of title IV (42 U.S.C. 681–687) is repealed.

(d) AMENDMENT TO TITLE X.—Section 1002(a)(7) (42 U.S.C. 1202(a)(7)) is amended by striking “aid to families with dependent children under the State plan approved under section 402 of this Act” and inserting “assistance under a State program funded under part A of title IV”.

(e) AMENDMENTS TO TITLE XI.—

(1) Section 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.

(f) AMENDMENT TO TITLE XIV.—Section 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking “aid to families with dependent children under the State plan approved under section 402 of this Act” and inserting “assistance under a State program funded under part A of title IV”.

(g) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972 (42 U.S.C. 1382 note), is amended by striking “aid under the State plan approved” and inserting “assistance under a State program funded”.

(h) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42 U.S.C. 1382(c)(5)(A)) is amended to read as follows: “(A) a State program funded under part A of title IV,”.

(i) AMENDMENT TO TITLE XIX.—Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking “1108(c)” and inserting “1108(g)”.

**SEC. 4109. 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).

(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 of such Act (7 U.S.C. 2026) is amended—

(1) in the first sentence of subsection (b)(1)(A), by striking “to aid to families with dependent children under part A of title IV of the Social Security Act” and inserting “or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)”; and

(2) in subsection (b)(3), by adding at the end the following new subparagraph:

“(I) The Secretary may not grant a waiver under this paragraph on or after October 1, 1995. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on September 30, 1995.”;

(e) Section 20 of such Act (7 U.S.C. 2029) is amended—

(1) in subsection (a)(2)(B) by striking “operating—” and all that follows through “(ii) any other” and inserting “operating any”; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “(b)(1) A household” and inserting “(b) A household”; and

(ii) in subparagraph (B), by striking “training program” and inserting “activity”;

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(f) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-186; 7 U.S.C. 612c note) is amended by striking “the program for aid to families with dependent children” and inserting “the State program funded”.

(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(C)(ii)(II)—

(i) by striking “program for aid to families with dependent children” and inserting “State program funded”; and

(ii) by inserting before the period at the end the following: “that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995”; and

(B) in paragraph (6)—

(i) in subparagraph (A)(ii)—

(I) by striking “an AFDC assistance unit (under the aid to families with dependent children program 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 com-

parable to or more restrictive than those in effect on June 1, 1995"; and

(ii) in subparagraph (B), by striking "aid to families with dependent children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(2) in subsection (d)(2)(C)—

(A) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(B) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(h) Section 17(d)(2)(A)(ii)(II) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)(II)) is amended—

(1) by striking "program for aid to families with dependent children established" and inserting "State program funded"; and

(2) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

#### **SEC. 4110. 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”; and

(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”; and

(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)”;

(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)”;

(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. 4111. 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 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. 4112. DISCLOSURE OF RECEIPT OF FEDERAL FUNDS.**

(a) **IN GENERAL.**—Whenever an organization that accepts Federal funds under this title or the amendments made by this title (other than funds provided under title IV, XVI, or XX of the Social Security Act) 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 title or the amendments made by this title.

(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. 4113. 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 insert-

ing “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. 4114. 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 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 subtitle.

**SEC. 4115. EFFECTIVE DATE; TRANSITION RULE.**

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle 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 4103(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 4103(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 4103(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 4103(a)(1) of this Act), then—

(i) on and after the date of such receipt—

(I) except as provided in clause (ii), this subtitle and the amendments made by this subtitle (other than by section 4103(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 4103(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 4103(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 4103(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)  $\frac{1}{366}$  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 4103(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  $\frac{1}{365}$  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 4103(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 4103(a)(1) of this Act).

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made 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 subtitle.

(4) CONTINUANCE IN OFFICE OF ASSISTANT SECRETARY FOR FAMILY SUPPORT.—The individual who, on the day before the effective date of this subtitle, is serving as Assistant Secretary for Family Support within the Department of Health and Human 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 4103(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).

## **Subtitle B—Supplemental Security Income**

### **SEC. 4200. REFERENCE TO SOCIAL SECURITY ACT.**

Except as otherwise specifically provided, wherever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

### **CHAPTER 1—ELIGIBILITY RESTRICTIONS**

#### **SEC. 4201. 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 Ad-

vancement 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. 4202. 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 4201(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 4201(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. 4203. TREATMENT OF PRISONERS.**

(a) **IMPLEMENTATION OF PROHIBITION AGAINST PAYMENT OF BENEFITS TO PRISONERS.**—

(1) **IN GENERAL.**—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 contract entered into under clause (i) or to information exchanged pursuant to such contract.”.

(2) **CONFORMING OASDI AMENDMENTS.**—Section 202(x)(3) (42 U.S.C. 402(x)(3)) is amended—

(A) by inserting “(A)” after “(3)”; and

(B) by adding at the end the following new subparagraph:

“(B)(i) The Commissioner shall enter into a contract, with any interested State or local institution described in clause (i) or (ii) of paragraph (1)(A) the primary purpose of which is to confine individuals as described in paragraph (1)(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 individuals confined in 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 individual who is entitled to a benefit under this title for the month preceding the first month throughout which such individual is confined in such institution as described in paragraph (1)(A), an amount not to exceed \$400 if the institution furnishes the information described in

subclause (I) to the Commissioner within 30 days after the date such individual's confinement in such institution begins, 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 contract entered into under clause (i) or to information exchanged pursuant to such contract.”.

(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)(1) 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) ELIMINATION OF OASDI REQUIREMENT THAT CONFINEMENT STEM FROM CRIME PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR.—

(1) IN GENERAL.—Section 202(x)(1)(A) (42 U.S.C. 402(x)(1)(A)) is amended—

(A) in the matter preceding clause (i), by striking “during” and inserting “throughout”;

(B) in clause (i), by striking “pursuant” and all that follows through “imposed”; and

(C) in clause (ii)(I), by striking “an offense punishable by imprisonment for more than 1 year” and inserting “a criminal offense”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall be effective with respect to benefits payable for months beginning more than 180 days after the date of the enactment of this Act.

(d) 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 sections 202(x) and 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 202(x)(3)(B) or 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. 4204. 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.

**CHAPTER 2—BENEFITS FOR DISABLED CHILDREN**

**SEC. 4211. 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)(i) 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.

“(ii) The Commissioner shall ensure that the combined effects of all physical or mental impairments of an individual are taken into account in determining whether an individual is disabled in accordance with clause (i).

“(iii) The Commissioner shall ensure that the regulations prescribed under this subparagraph provide for the evaluation of children who cannot be tested because of their young age.

“(iv) Notwithstanding the preceding provisions of this subparagraph, no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled.”; and

(5) in subparagraph (F), as redesignated by paragraph (3), by striking “(D)” and inserting “(E)”.

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of 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/behavioral function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) MEDICAL IMPROVEMENT REVIEW STANDARD AS IT APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.—Section 1614(a)(4) (42 U.S.C. 1382(a)(4)) is amended—

(1) by redesignating subclauses (I) and (II) of clauses (i) and (ii) of subparagraph (B) as 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 combination 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.

(d) EFFECTIVE DATE, ETC.—

(1) EFFECTIVE DATE.—The provisions of, and amendments made by, this section shall apply to applications for benefits under title XVI of the Social Security Act pending on, or filed 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.

(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 eligible for 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, 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, 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 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 otherwise 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. 4212. 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 4211(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. 4213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.**

(a) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—

(1) IN GENERAL.—Section 1613(c) (42 U.S.C. 1382b(c)) is amended to read as follows:

“Disposal of Resources for Less Than Fair Market Value

“(c)(1)(A)(i) If an individual who has not attained 18 years of age (or any person acting on such individual’s behalf) disposes of resources of the individual for less than fair market value on or after the look-back date specified in clause (ii)(I), the individual is ineligible for benefits under this title for months during the period beginning on the date specified in clause (iii) and equal to the number of months specified in clause (iv).

“(ii)(I) The look-back date specified in this subclause is a date that is 36 months before the date specified in subclause (II).

“(II) The date specified in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the disposal of the individual’s resources for less than fair market value occurs.

“(iii) The date specified in this clause is the first day of the first month that follows the month in which the individual’s resources were disposed of for less than fair market value and that does not occur in any other period of ineligibility under this paragraph.

“(iv) The number of months of ineligibility under this clause for an individual shall be equal to—

“(I) the total, cumulative uncompensated value of all the individual’s resources so disposed of on or after the look-back date specified in clause (ii)(I), divided by

“(II) the amount of the maximum monthly benefit payable under section 1611(b) to an eligible individual for the month in which the date specified in clause (ii)(II) occurs.

“(B) An individual shall not be ineligible for benefits under this title by reason of subparagraph (A) if the Commissioner determines that—

“(i) the individual intended to dispose of the resources at fair market value;

“(ii) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title;

“(iii) all resources transferred for less than fair market value have been returned to the individual; or

“(iv) the denial of eligibility would work an undue hardship on the individual (as determined on the basis of criteria established by the Commissioner in regulations).

“(C) For purposes of this paragraph, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be disposed of by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual’s ownership or control of such resource.

“(D)(i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to such resource is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered, but for the application of subsection (e)(4)).

“(ii) In the case of a trust established by an individual (within the meaning of subsection (e)(2)(A)), if from such portion of the

trust (if any) that is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered but for the application of subsection (e)(2)) or the residue of such portion upon the termination of the trust—

“(I) there is made a payment other than to or for the benefit of the individual, or

“(II) no payment could under any circumstance be made to the individual,

then the payment described in subclause (I) or the foreclosure of payment described in subclause (II) shall be considered a disposal of resources by the individual subject to this subsection, as of the date of such payment or foreclosure, respectively.

“(2)(A) At the time an individual (and the individual’s eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Commissioner of Social Security shall—

“(i) inform such individual of the provisions of paragraph (1) providing for a period of ineligibility for benefits under this title for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to clause (ii) will be made available to the State agency administering a State plan approved under title XV or XIX (as provided in subparagraph (B)); and

“(ii) obtain from such individual information which may be used in determining whether or not a period of ineligibility for such benefits would be required by reason of paragraph (1).

“(B) The Commissioner of Social Security shall make the information obtained under subparagraph (A)(ii) available, on request, to any State agency administering a State plan approved under title XV or XIX.

“(3) For purposes of this subsection—

“(A) the term ‘trust’ includes any legal instrument or device that is similar to a trust; and

“(B) the term ‘benefits under this title’ includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective with respect to transfers that occur at least 90 days after the date of the enactment of this Act.

(b) TREATMENT OF ASSETS HELD IN TRUST.—

(1) TREATMENT AS RESOURCE.—Section 1613 (42 U.S.C. 1382) is amended by adding at the end the following new subsection:

#### “Trusts

“(e)(1) In determining the resources of an individual who has not attained 18 years of age, the provisions of paragraph (3) shall apply to a trust established by such individual.



“(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual were transferred to the trust.

“(B) In the case of an irrevocable trust to which the assets of an individual and the assets of any other person or persons were transferred, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

“(C) This subsection shall apply without regard to—

- “(i) the purposes for which the trust is established;
- “(ii) whether the trustees have or exercise any discretion under the trust;
- “(iii) any restrictions on when or whether distributions may be made from the trust; or
- “(iv) any restrictions on the use of distributions from the trust.

“(3)(A) In the case of a revocable trust, the corpus of the trust shall be considered a resource available to the individual.

“(B) In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the corpus from which payment to or for the benefit of the individual could be made shall be considered a resource available to the individual.

“(4) The Commissioner may waive the application of this subsection with respect to any individual if the Commissioner determines, on the basis of criteria prescribed in regulations, that such application would work an undue hardship on such individual.

“(5) For purposes of this subsection—

“(A) the term ‘trust’ includes any legal instrument or device that is similar to a trust;

“(B) the term ‘corpus’ means all property and other interests held by the trust, including accumulated earnings and any other addition to such trust after its establishment (except that such term does not include any such earnings or addition in the month in which such earnings or addition is credited or otherwise transferred to the trust);

“(C) the term ‘asset’ includes any income or resource of the individual, including—

- “(i) any income otherwise excluded by section 1612(b);
  - “(ii) any resource otherwise excluded by this section;
- and
- “(iii) any other payment or property that the individual is entitled to but does not receive or have access to because of action by—

“(I) such individual;

“(II) a person or entity (including a court) with legal authority to act in place of, or on behalf of, such individual; or

“(III) a person or entity (including a court) acting at the direction of, or upon the request of, such individual; and

“(D) the term ‘benefits under this title’ includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to

an agreement entered into under section 212(b) of Public Law 93-66.”.

(2) TREATMENT AS INCOME.—Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended—

- (A) by striking “and” at the end of subparagraph (E);
- (B) by striking the period at the end of subparagraph (F) and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(G) any earnings of, and additions to, the corpus of a trust (as defined in section 1613(f)) established by an individual (within the meaning of section 1613(e)(2)(A)) and of which such individual is a beneficiary (other than a trust to which section 1613(e)(4) applies), except that in the case of an irrevocable trust, there shall exist circumstances under which payment from such earnings or additions could be made to, or for the benefit of, such individual.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date which is 90 days after the date of the enactment of this Act, and shall apply to trusts established on or after such date.

(c) REQUIREMENT TO ESTABLISH ACCOUNT.—

(1) IN GENERAL.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

- (A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

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

“(F)(i)(I) Each representative payee of an eligible individual under the age of 18 who is eligible for the payment of benefits described in subclause (II) shall establish on behalf of such individual an account in a financial institution into which such benefits shall be paid, and shall thereafter maintain such account for use in accordance with clause (ii).

“(II) Benefits described in this subclause are past-due monthly benefits under this title (which, for purposes of this subclause, include State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93-66) in an amount (after any withholding by the Commissioner for reimbursement to a State for interim assistance under subsection (g)) that exceeds the product of—

“(aa) 6, and

“(bb) the maximum monthly benefit payable under this title to an eligible individual.

“(ii)(I) A representative payee shall 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 (bb), (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).”

(2) 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

(D) 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).”

(3) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(A) by striking “and” at the end of paragraph (19);

(B) by striking the period at the end of paragraph (20) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(2)(F).”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

**SEC. 4214. 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. 4215. 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 chapter.

**CHAPTER 3—ADDITIONAL ENFORCEMENT PROVISIONS**

**SEC. 4221. 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. 4222. RECOVERY OF SUPPLEMENTAL SECURITY INCOME OVERPAYMENTS FROM SOCIAL SECURITY BENEFITS.**

(a) IN GENERAL.—Part A of title XI is amended by adding at the end the following new section:

“RECOVERY OF SSI OVERPAYMENTS FROM SOCIAL SECURITY BENEFITS

“SEC. 1146. (a) IN GENERAL.—Whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to any person under the supplemental security income program authorized by title XVI, and the Commis-

sioner is unable to make proper adjustment or recovery of the amount so incorrectly paid as provided in section 1631(b), the Commissioner (notwithstanding section 207) may recover the amount incorrectly paid by decreasing any amount which is payable under the Federal Old-Age and Survivors Insurance program or the Federal Disability Insurance program authorized by title II to that person or that person's estate.

“(b) NO EFFECT ON SSI BENEFIT ELIGIBILITY OR AMOUNT.—Notwithstanding subsections (a) and (b) of section 1611, in any case in which the Commissioner takes action in accordance with subsection (a) to recover an overpayment from any person, neither that person, nor any individual whose eligibility or benefit amount is determined by considering any part of that person's income, shall, as a result of such action—

“(1) become eligible under the program of supplemental security income benefits under title XVI, or

“(2) if such person or individual is already so eligible, become eligible for increased benefits thereunder.

“(c) PROGRAM UNDER TITLE XVI.—For purposes of this section, the term ‘supplemental security income program authorized by title XVI’ 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 AMENDMENTS.—

(1) Section 204 (42 U.S.C. 404) is amended by adding at the end the following new subsection:

“(g) For payments which are adjusted or withheld to recover an overpayment of supplemental security income benefits paid under title XVI (including State supplementary payments which were paid under an agreement pursuant to section 1616(a) or section 212(b) of Public Law 93–66), see section 1146.”.

(2) Section 1631(b) is amended by adding at the end the following new paragraph:

“(5) For the recovery of overpayments of benefits under this title from benefits payable under title II, see section 1146.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to overpayments outstanding on or after such date.

#### **SEC. 4223. 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 chapter.

### **CHAPTER 4—STATE SUPPLEMENTATION PROGRAMS**

#### **SEC. 4225. 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.

## **CHAPTER 5—STUDIES REGARDING SUPPLEMENTAL SECURITY INCOME PROGRAM**

### **SEC. 4231. ANNUAL REPORT ON THE SUPPLEMENTAL SECURITY INCOME PROGRAM.**

Title XVI (42 U.S.C. 1381 et seq.), as amended by section 4201(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) projections of future number of recipients and program costs, through at least 25 years;
- “(5) number of redeterminations and continuing disability reviews, and the outcomes of such redeterminations and reviews;
- “(6) data on the utilization of work incentives;
- “(7) detailed information on administrative and other program operation costs;
- “(8) summaries of relevant research undertaken by the Social Security Administration, or by other researchers;
- “(9) State supplementation program operations;
- “(10) a historical summary of statutory changes to this title; and
- “(11) 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. 4232. STUDY OF DISABILITY DETERMINATION PROCESS.**

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, and from funds otherwise appropriated, the Commissioner of Social Security shall make arrangements with the National Academy of Sciences, or other independent entity, to conduct a study of the disability determination process under titles II and XVI of the Social Security Act. This study shall be undertaken in consultation with professionals representing appropriate disciplines.

(b) **STUDY COMPONENTS.**—The study described in subsection (a) shall include—

(1) an initial phase examining the appropriateness of, and making recommendations regarding—

(A) the definitions of disability in effect on the date of the enactment of this Act and the advantages and disadvantages of alternative definitions; and

(B) the operation of the disability determination process, including the appropriate method of performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(2) a second phase, which may be concurrent with the initial phase, examining the validity, reliability, and consistency with current scientific knowledge of the standards and 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, and of related evaluation procedures as promulgated by the Commissioner of Social Security; and

(3) such other issues as the applicable entity considers appropriate.

(c) **REPORTS AND REGULATIONS.**—

(1) **REPORTS.**—The Commissioner of Social Security shall request the applicable entity, to submit an interim report and a final report of the findings and recommendations resulting from the study described in this section to the President and the Congress not later than 18 months and 24 months, respectively, from the date of the contract for such study, and such additional reports as the Commissioner deems appropriate after consultation with the applicable entity.

(2) **REGULATIONS.**—The Commissioner of Social Security shall review both the interim and final reports, and shall issue regulations implementing any necessary changes following each report.

**SEC. 4233. 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 subtitle 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 6—NATIONAL COMMISSION ON THE FUTURE OF DISABILITY**

**SEC. 4241. ESTABLISHMENT.**

There is established a commission to be known as the National Commission on the Future of Disability (referred to in this chapter as the “Commission”).

**SEC. 4242. DUTIES OF THE COMMISSION.**

(a) **IN GENERAL.**—The Commission shall develop and carry out a comprehensive study of all matters related to the nature, purpose, and adequacy of all Federal programs serving individuals with disabilities. In particular, the Commission shall study the disability insurance program under title II of the Social Security Act



and the supplemental security income disability program under title XVI of such Act.

(b) **MATTERS STUDIED.**—The Commission shall prepare an inventory of Federal programs serving individuals with disabilities, and shall examine—

(1) trends and projections regarding the size and characteristics of the population of individuals with disabilities, and the implications of such analyses for program planning;

(2) the feasibility and design of performance standards for the Nation's disability programs;

(3) the adequacy of Federal efforts in rehabilitation research and training, and opportunities to improve the lives of individuals with disabilities through all manners of scientific and engineering research; and

(4) the adequacy of policy research available to the Federal Government, and what actions might be undertaken to improve the quality and scope of such research.

(c) **RECOMMENDATIONS.**—The Commission shall submit to the appropriate committees of the Congress and to the President recommendations and, as appropriate, proposals for legislation, regarding—

(1) which (if any) Federal disability programs should be eliminated or augmented;

(2) what new Federal disability programs (if any) should be established;

(3) the suitability of the organization and location of disability programs within the Federal Government;

(4) other actions the Federal Government should take to prevent disabilities and disadvantages associated with disabilities; and

(5) such other matters as the Commission considers appropriate.

#### **SEC. 4243. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—

(1) **IN GENERAL.**—The Commission shall be composed of 15 members, of whom—

(A) five shall be appointed by the President, of whom not more than 3 shall be of the same major political party;

(B) three shall be appointed by the Majority Leader of the Senate;

(C) two shall be appointed by the Minority Leader of the Senate;

(D) three shall be appointed by the Speaker of the House of Representatives; and

(E) two shall be appointed by the Minority Leader of the House of Representatives.

(2) **REPRESENTATION.**—The Commission members shall be chosen based on their education, training, or experience. In appointing individuals as members of the Commission, the President and the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives shall seek to ensure that the membership of the Commission reflects the general interests of the business and tax-

paying community and the diversity of individuals with disabilities in the United States.

(b) COMPTROLLER GENERAL.—The Comptroller General of the United States shall advise the Commission on the methodology and approach of the study of the Commission.

(c) TERM OF APPOINTMENT.—The members shall serve on the Commission for the life of the Commission.

(d) MEETINGS.—The Commission shall locate its headquarters in the District of Columbia, and shall meet at the call of the Chairperson, but not less than 4 times each year during the life of the Commission.

(e) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—Not later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson from among the members of the Commission.

(g) CONTINUATION OF MEMBERSHIP.—If a member of the Commission becomes an officer or employee of any government after appointment to the Commission, the individual may continue as a member until a successor member is appointed.

(h) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy.

(i) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(j) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

#### **SEC. 4244. STAFF AND SUPPORT SERVICES.**

(a) DIRECTOR.—

(1) APPOINTMENT.—Upon consultation with the members of the Commission, the Chairperson shall appoint a Director of the Commission.

(2) COMPENSATION.—The Director shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the Director may appoint such personnel as the Director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commis-

sion to assist in carrying out the duties of the Commission under this chapter.

(f) **OTHER RESOURCES.**—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The Chairperson of the Commission shall make requests for such access in writing when necessary.

(g) **PHYSICAL FACILITIES.**—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning of the Commission.

**SEC. 4245. POWERS OF COMMISSION.**

(a) **HEARINGS.**—The Commission may conduct public hearings or forums at the discretion of the Commission, at any time and place the Commission is able to secure facilities and witnesses, for the purpose of carrying out the duties of the Commission under this chapter.

(b) **DELEGATION OF AUTHORITY.**—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) **INFORMATION.**—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out its duties under this chapter. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) **GIFTS, BEQUESTS, AND DEVISES.**—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

**SEC. 4246. REPORTS.**

(a) **INTERIM REPORT.**—Not later than 1 year prior to the date on which the Commission terminates pursuant to section 4247, the Commission shall submit an interim report to the President and to the Congress. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for legislative and administrative action, based on the activities of the Commission.

(b) **FINAL REPORT.**—Not later than the date on which the Commission terminates, the Commission shall submit to the Congress and to the President a final report containing—

- (1) a detailed statement of final findings, conclusions, and recommendations; and

(2) an assessment of the extent to which recommendations of the Commission included in the interim report under subsection (a) have been implemented.

(c) **PRINTING AND PUBLIC DISTRIBUTION.**—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

**SEC. 4247. TERMINATION.**

The Commission shall terminate on the date that is 2 years after the date on which the members of the Commission have met and designated a Chairperson and Vice Chairperson.

**SEC. 4248. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out the purposes of the Commission.

## **Subtitle C—Child Support**

**SEC. 4300. REFERENCE TO SOCIAL SECURITY ACT.**

Except as otherwise specifically provided, wherever in this subtitle an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

### **CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS**

**SEC. 4301. 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 furnished under the plan, except that an application or other request to continue services shall not be required of such a family and paragraph (6)(B) shall not apply to the family.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking “454(6)” and inserting “454(4)”.

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking “454(6)” each place it appears and inserting “454(4)(A)(ii)”.

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking “in the case of overdue support which a State has agreed to collect under section 454(6)” and inserting “in any other case”.

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking “paragraph (4) or (6) of section 454” and inserting “section 454(4)”.

#### **SEC. 4302. 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 4302 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 4302 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 4302 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. 4303. PRIVACY SAFEGUARDS.**

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 4301(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. 4304. RIGHTS TO NOTIFICATION OF HEARINGS.**

(a) IN GENERAL.—Section 454 (42 U.S.C. 654), as amended by section 4302(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.

## CHAPTER 2—LOCATE AND CASE TRACKING

### SEC. 4311. STATE CASE REGISTRY.

Section 454A, as added by section 4344(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. 4312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.**

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 4301(b) and 4303(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 4344(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 income 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 4344(a)(2) and as amended by section 4311 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 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.

(e) SENSE OF THE CONGRESS.—It is the sense of the Congress that, in determining whether to comply with section 454B of the

Social Security Act by establishing a single, centralized unit for the collection and disbursement of support payments or by linking together through automation local units for the collection and disbursement of support payments, a State should choose the method of compliance which best meets the needs of parents, employers, and children.

**SEC. 4313. STATE DIRECTORY OF NEW HIRES.**

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 4301(b), 4303(a) and 4312(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 income 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 income is 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, and may disclose such information to any agent of the agency that is under contract with the agency to carry out such purposes.

“(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)”.

(d) DISCLOSURE TO CERTAIN AGENTS.—Section 303(e) (42 U.S.C. 503(e)) is amended by adding at the end the following:

“(5) A State or local child support enforcement agency may disclose to any agent of the agency that is under contract with the agency to carry out the purposes described in paragraph (1)(B) wage information that is disclosed to an officer or employee of the agency under paragraph (1)(A). Any agent of a State or local child support agency that receives wage information under this paragraph shall comply with the safeguards established pursuant to paragraph (1)(B).”.

#### **SEC. 4314. 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 income 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 withhold funds as directed in the notice. For terms and conditions for withholding income that are not specified in a notice issued by another State, the employer shall apply the law of the State in which the obligor works. An employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.”.

(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 income 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 income 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) DEFINITION OF INCOME.—

(1) IN GENERAL.—Section 466(b)(8) (42 U.S.C. 666(b)(8)) is amended to read as follows:

“(8) For purposes of subsection (a) and this subsection, the term ‘income’ means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker’s compensation, disability, payments pursuant to a pension or retirement program, and interest.”

(2) CONFORMING AMENDMENTS.—

(A) Subsections (a)(8)(A), (a)(8)(B)(i), (b)(3)(A), (b)(3)(B), (b)(6)(A)(i), and (b)(6)(C), and (b)(7) of section 466 (42 U.S.C. 666(a)(8)(A), (a)(8)(B)(i), (b)(3)(A), (b)(3)(B), (b)(6)(A)(i), and (b)(6)(C), and (b)(7)) are each amended by striking “wages” each place such term appears and inserting “income”.

(B) Section 466(b)(1) (42 U.S.C. 666(b)(1)) is amended by striking “wages (as defined by the State for purposes of this section)” and inserting “income”.

(c) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

#### **SEC. 4315. 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. 4316. 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 abstracts 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, which shall be used to determine the accuracy of payments under the supplemental security income program under title XVI and in connection with benefits under title II.

“(5) RESEARCH.—The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

“(k) FEES.—

“(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).

“(2) FOR INFORMATION FROM STATE DIRECTORIES OF NEW HIRES.—The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such information).

“(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

“(1) 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 chapter. 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. 4317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.**

(a) **STATE LAW REQUIREMENT.**—Section 466(a) (42 U.S.C. 666(a)), as amended by section 4315 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.”.

(b) **CONFORMING AMENDMENTS.**—Section 205(c)(2)(C) (42 U.S.C. 405(c)(2)(C)), as amended by section 321(a)(9) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(1) in clause (i), by striking “may require” and inserting “shall require”;

(2) in clause (ii), by inserting after the 1st sentence the following: “In the administration of any law involving the issuance of a marriage certificate or license, each State shall require each party named in the certificate or license to furnish to the State (or political subdivision thereof), or any State agency having administrative responsibility for the law involved, the social security number of the party.”;

(3) in clause (ii), by inserting “or marriage certificate” after “Such numbers shall not be recorded on the birth certificate”.

(4) in clause (vi), by striking “may” and inserting “shall”; and

(5) by adding at the end the following new clauses:

“(x) An agency of a State (or a political subdivision thereof) charged with the administration of any law concerning the issuance or renewal of a license, certificate, permit, or other authorization to engage in a profession, an occupation, or a commercial activity shall require all applicants for issuance or renewal of the license, certificate, permit, or other authorization to provide the applicant’s social security number to the agency for the purpose of administering such laws, and for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.

“(xi) All divorce decrees, support orders, and paternity determinations issued, and all paternity acknowledgments made, in each State shall include the social security number of each party to the decree, order, determination, or acknowledgment in the

records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.”.

### **CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES**

#### **SEC. 4321. 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. 4322. 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. 4323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.**

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 4315 and 4317(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 case-load 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. 4324. 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. 4325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.**

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 4314 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 INFORMATION CONTAINED IN CERTAIN RECORDS.—To obtain access, subject to safeguards on privacy and information security, and subject to the nonliability of entities that afford such access under this subparagraph, to information contained in 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, pursuant to an administrative subpoena authorized by subparagraph (B); and

“(II) information (including information on assets and liabilities) on such individuals held by financial institutions.

“(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 4344(a)(2) and as amended by sections 4311 and 4312(c) of this Act, is amended by adding at the end the following new subsection:

“(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required by this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required by section 466(c).”.

#### **CHAPTER 4—PATERNITY ESTABLISHMENT**

##### **SEC. 4331. 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 non-existence of sexual contact between the parties.

“(ii) OTHER REQUIREMENTS.—Procedures which require the State agency, in any case in which the agency orders genetic testing—

“(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

“(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

“(C) VOLUNTARY PATERNITY ACKNOWLEDGMENT.—

“(i) SIMPLE CIVIL PROCESS.—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

“(ii) HOSPITAL-BASED PROGRAM.—Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child, 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 acknowl-

edgment 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. 4332. 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. 4333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF PART A ASSISTANCE.**

Section 454 (42 U.S.C. 654), as amended by sections 4301(b), 4303(a), 4312(a), and 4313(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.”.

## **CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING**

### **SEC. 4341. 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; and

(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. 4342. 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. 4343. 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 4301(b), 4303(a), 4312(a), 4313(a), and 4333 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. 4344. 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)”;
- (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 4303(a)(1) of this Act, is amended to read as follows:

“(24) provide that the State will have in effect an automated data processing and information retrieval system—

“(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988, and

“(B) by October 1, 1999, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 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 4344(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.

“(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. 4345. TECHNICAL ASSISTANCE.**

(a) FOR TRAINING OF FEDERAL AND STATE STAFF, RESEARCH AND DEMONSTRATION PROGRAMS, AND SPECIAL PROJECTS OF REGIONAL OR NATIONAL SIGNIFICANCE.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:

“(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—

“(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and

“(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.

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 4316 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. 4346. 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 “The information contained in any such report under subparagraph (A)” and all that follows through “the State plan approved under part A.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1997 and succeeding fiscal years.

## CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

### SEC. 4351. 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. 4352. 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. 4353. 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 defendant shall be liable to the plaintiff in an amount equal to the sum of—

“(A) the greater of—

“(i) \$1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

“(ii) the sum of—

“(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

“(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

“(B) the costs (including attorney’s fees) of the action.

“(d) DEFINITIONS.—For purposes of this section—

“(1) FINANCIAL INSTITUTION.—The term ‘financial institution’ means—

“(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

“(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(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).”.

## CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

### SEC. 4361. 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. 4362. 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 Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.”.

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended—

(A) by inserting “or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p)),” before “which—”;

(B) in subparagraph (B)(i), by striking “(as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))” and inserting “(as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 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. 4363. 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 administra-



tive 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 4362(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. 4364. VOIDING OF FRAUDULENT TRANSFERS.**

Section 466 (42 U.S.C. 666), as amended by section 4321 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. 4365. 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 4315, 4317(a), and 4323 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. 4366. DEFINITION OF SUPPORT ORDER.**

Section 453 (42 U.S.C. 653) as amended by sections 4316 and 4345(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. 4367. 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. 4368. 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. 4369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.**

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 4315, 4317(a), 4323, and 4365 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. 4370. 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 4345 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 4301(b), 4303(a), 4312(b), 4313(a), 4333, and 4343(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. 4371. INTERNATIONAL SUPPORT ENFORCEMENT.**

(a) **AUTHORITY FOR INTERNATIONAL AGREEMENTS.**—Part D of title IV, as amended by section 4362(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 implementation of such procedures is so unsatisfactory, that such procedures do not meet the criteria for such a declaration; or

**“(B)** continued operation of the declaration is not consistent with the purposes of this part.

**“(3) FORM OF DECLARATION.**—A declaration under paragraph (1) may be made in the form of an international agreement, in connection with an 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 4301(b), 4303(a), 4312(b), 4313(a), 4333, 4343(b), and 4370(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. 4372. FINANCIAL INSTITUTION DATA MATCHES.**

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 4315, 4317(a), 4323, 4365, and 4369 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. 4373. 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 4315, 4317(a), 4323, 4365, 4369, and 4372 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. 4374. 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

- (4) 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.

**CHAPTER 8—MEDICAL SUPPORT**

**SEC. 4376. 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. 4377. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.**

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 4315, 4317(a), 4323, 4365, 4369, 4372, and 4373 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.”.

**CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-RESIDENTIAL PARENTS**

**SEC. 4381. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.**

Part D of title IV (42 U.S.C. 651–669), as amended by section 4353 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 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 1997 or 1998; 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.”.

## **CHAPTER 10—EFFECTIVE DATES AND CONFORMING AMENDMENTS**

### **SEC. 4391. 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 subtitle requiring the enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this subtitle shall become effective upon the date of the enactment of this Act.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this subtitle shall become effective with respect to a State on the later of—

(1) the date specified in this subtitle, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions, but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this subtitle if the State is unable to so comply without amending the State constitution until the earlier of—

(1) 1 year after the effective date of the necessary State constitutional amendment; or

- (2) 5 years after the date of the enactment of this Act.
- (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)(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)).

## **Subtitle D—Restricting Welfare and Public Benefits for Aliens**

### **SEC. 4400. 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 in-

capable 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 subtitle, 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.

#### **CHAPTER 1—ELIGIBILITY FOR FEDERAL BENEFITS**

##### **SEC. 4401. 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 4431) 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 serious 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 subtitle 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. 4402. 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 4431) 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 4403(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 subtitle, the term “specified Federal program” means any of the following:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act, 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 4403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 4431) 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 4435, and (II) did not receive any Federal means-tested public benefit (as defined in section 4403(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 benefits under such program on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(3) DESIGNATED FEDERAL PROGRAM DEFINED.—For purposes of this subtitle, the term “designated Federal program” means any of the following:

(A) TEMPORARY ASSISTANCE FOR NEEDY FAMILIES.—The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act.

(B) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(C) MEDICAID.—The program of medical assistance under title XV and XIX of the Social Security Act.

**SEC. 4403. 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 4431) and who enters the United States on or after the date of the enactment of this Act is not eligible for any Federal means-tested public benefit (as defined in subsection (c)) for a period of five years beginning on the date of the alien's entry into the United States with a status within the meaning of the term “qualified alien”.

(b) EXCEPTIONS.—The limitation under subsection (a) shall not apply to the following aliens:

(1) EXCEPTION FOR REFUGEES AND ASYLEES.—



(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is being withheld under section 243(h) of such Act.

(2) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(c) FEDERAL MEANS-TESTED PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this subtitle, the term “Federal means-tested public benefit” means a 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 serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(F) Payments for foster care and adoption assistance under parts B and 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. 4404. NOTIFICATION AND INFORMATION REPORTING.**

(a) NOTIFICATION.—Each Federal agency that administers a program to which section 4401, 4402, or 4403 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 chapter.

(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 4103(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 en-

sure 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.”.

## **CHAPTER 2—ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS**

### **SEC. 4411. ALIENS WHO ARE NOT QUALIFIED ALIENS OR NON-IMMIGRANTS 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 4431),
  - (2) a nonimmigrant under the Immigration and Nationality Act, or
  - (3) an alien who is paroled 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 serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(c) STATE OR LOCAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this chapter 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. 4412. 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 4431), 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 4435, and (ii) did not receive any Federal means-tested public benefit (as defined in section 4403(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.

### **CHAPTER 3—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT**

#### **SEC. 4421. 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 4403(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 4423) 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 4435, and (B) did not receive any Federal means-tested public benefit (as defined in section 4403(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 eligi-

bility 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. 4422. 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 4412(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 4423) 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 serious 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. 4423. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.**

(a) **IN GENERAL.**—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

“REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF SUPPORT

“SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed as a contract—

“(A) which is legally enforceable against the sponsor by the sponsored alien, the Federal Government, and by any State (or any political subdivision of such State) which provides any means-tested public benefits program, but not later than 10 years after the alien last receives any such benefit;

“(B) in which the sponsor agrees to financially support the alien, so that the alien will not become a public charge; and

“(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

“(2) A contract under paragraph (1) shall be enforceable with respect to benefits provided to the alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III.

“(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

“(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

“(d) NOTIFICATION OF CHANGE OF ADDRESS.—

“(1) IN GENERAL.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(2).

“(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

“(A) not less than \$250 or more than \$2,000, or

“(B) if such failure occurs with knowledge that the alien has received any means-tested public benefit, not less than \$2,000 or more than \$5,000.

“(e) REIMBURSEMENT OF GOVERNMENT EXPENSES.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

“(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

“(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

“(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

“(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.

“(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

“(f) DEFINITIONS.—For the purposes of this section—

“(1) SPONSOR.—The term ‘sponsor’ means an individual who—

“(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

“(B) is 18 years of age or over;

“(C) is domiciled in any 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 serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(6) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child, but only if the foster or adoptive parent or parents of such child are not otherwise ineligible pursuant to section 4403 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. 4424. 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 co-signed 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.”.

## CHAPTER 4—GENERAL PROVISIONS

### SEC. 4431. DEFINITIONS.

(a) **IN GENERAL.**—Except as otherwise provided in this subtitle, the terms used in this subtitle have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(b) **QUALIFIED ALIEN.**—For purposes of this subtitle, the term “qualified alien” means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,

(2) an alien who is granted asylum under section 208 of such Act,

(3) a refugee who is admitted to the United States under section 207 of such Act,

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act, or

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.

### SEC. 4432. 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 4401(c)), to which the limitation under section 4401 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. 4433. STATUTORY CONSTRUCTION.

(a) **LIMITATION.**—

(1) Nothing in this subtitle may be construed as an entitlement or a determination of an individual’s eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this subtitle, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(2) Nothing in this subtitle may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under *Plyler v. Doe* (457 U.S. 202)(1982).

(b) NOT APPLICABLE TO FOREIGN ASSISTANCE.—This subtitle does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

(c) SEVERABILITY.—If any provision of this subtitle or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.

**SEC. 4434. 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. 4435. QUALIFYING QUARTERS.**

For purposes of this subtitle, 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 4403(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 4403(c)) during any such quarter and the alien remains married to such spouse or such spouse is deceased.

**CHAPTER 5—CONFORMING AMENDMENTS RELATING TO ASSISTED HOUSING**

**SEC. 4441. 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)”; and

(2) by striking “by the Secretary of Housing and Urban Development”; and

(3) by striking paragraph (2).

## **CHAPTER 6—EARNED INCOME CREDIT DENIED TO UNAUTHORIZED EMPLOYEES**

### **SEC. 4451. 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.

## **Subtitle E—Reform of Public Housing**

### **SEC. 4601. 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.).

## **Subtitle F—Child Protection Block Grant Programs and Foster Care, Adoption Assistance, and Independent Living Programs**

### **CHAPTER 1—CHILD PROTECTION BLOCK GRANT PROGRAM AND FOSTER CARE, ADOPTION ASSISTANCE, AND INDEPENDENT LIVING PROGRAMS**

#### **Subchapter A—Block Grants to States for the Protection of Children**

### **SEC. 4701. ESTABLISHMENT OF PROGRAM.**

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by striking part B and inserting the following:

## **“PART B—BLOCK GRANTS TO STATES FOR THE PROTECTION OF CHILDREN**

### **“SEC. 421. PURPOSE.**

“The purpose of this part is to enable eligible States to carry out a child protection program to—

“(1) identify and assist families at risk of abusing or neglecting their children;

“(2) operate a system for receiving reports of abuse or neglect of children;

“(3) improve the intake, assessment, screening, and investigation of reports of abuse and neglect;

“(4) enhance the general child protective system by improving risk and safety assessment tools and protocols;

“(5) improve legal preparation and representation, including procedures for appealing and responding to appeals of substantiated reports of abuse and neglect;

“(6) provide support, treatment, and family preservation services to families which are, or are at risk of, abusing or neglecting their children;

“(7) support children who must be removed from or who cannot live with their families;

“(8) make timely decisions about permanent living arrangements for children who must be removed from or who cannot live with their families;

“(9) provide for continuing evaluation and improvement of child protection laws, regulations, and services;

“(10) develop and facilitate training protocols for individuals mandated to report child abuse or neglect; and

“(11) develop and enhance the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

### **“SEC. 422. ELIGIBLE STATES.**

“(a) IN GENERAL.—As used in this part, the term ‘eligible State’ means a State that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:

“(1) OUTLINE OF CHILD PROTECTION PROGRAM.—A written document that outlines the activities the State intends to conduct to achieve the purpose of this part, including the procedures to be used for—

“(A) receiving and assessing reports of child abuse or neglect;

“(B) investigating such reports;

“(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;

“(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

“(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;

“(F) protecting children in foster care;

“(G) promoting timely adoptions;

“(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards; and

“(I) providing services to individuals, families, or communities, either directly or through referral, that are aimed at preventing the occurrence of child abuse and neglect.

“(2) CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.—A certification that the State has in effect laws that require public officials and other professionals to report, in good faith, actual or suspected instances of child abuse or neglect.

“(3) CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.

“(4) CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.

“(5) CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.—A certification that the State has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

“(6) CERTIFICATION OF PROVISIONS AND PROCEDURES RELATING TO APPEALS.—A certification that not later than 2 years after the date of the enactment of this part, the State shall have laws and procedures in effect affording individuals an opportunity to appeal an official finding of abuse or neglect.

“(7) CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.

“(8) CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.

“(9) CERTIFICATION OF STATE PROCEDURES TO RESPOND TO REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

“(A) IN GENERAL.—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

“(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

“(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

“(iii) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

“(B) WITHHOLDING OF MEDICALLY INDICATED TREATMENT.—As used in subparagraph (A), the term ‘withholding of medically indicated treatment’ means the failure to respond to the infant’s life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that such term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment—

“(i) the infant is chronically and irreversibly comatose;

“(ii) the provision of such treatment would—

“(I) merely prolong dying;

“(II) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or

“(III) otherwise be futile in terms of the survival of the infant; or



“(iii) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

“(10) IDENTIFICATION OF CHILD PROTECTION GOALS.—The quantitative goals of the State child protection program.

“(11) CERTIFICATION OF CHILD PROTECTION STANDARDS.—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—

“(A) has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

“(i) the appropriateness of, and necessity for, the foster care placement;

“(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

“(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

“(B) is operating, to the satisfaction of the Secretary—

“(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

“(ii) a case review system for each child receiving foster care under the supervision of the State;

“(iii) a service program designed to help children—

“(I) where appropriate, return to families from which they have been removed; or

“(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

“(iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and

“(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

“(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.

“(12) CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.—A certification that the State in each case will—

“(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child’s home, and to make it possible for the child to return home; and

“(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children where the State makes a determination that the child may safely remain with the family.

“(13) CERTIFICATION OF COOPERATIVE EFFORTS.—A certification by the State, where appropriate, that all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under part E.

“(14) CERTIFICATION OF CONFIDENTIALITY AND REQUIREMENTS FOR INFORMATION DISCLOSURE.—

“(A) IN GENERAL.—A certification that the State has in effect and operational—

“(i) requirements ensuring that reports and records made and maintained pursuant to the purposes of this part shall only be made available to—

“(I) individuals who are the subject of the report;

“(II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out their responsibilities under law to protect children from abuse and neglect;

“(III) child abuse citizen review panels;

“(IV) child fatality review panels;

“(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

“(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose; and

“(ii) provisions that allow for public disclosure of the findings or information about cases of child abuse or neglect that have resulted in a child fatality or near fatality.

“(B) LIMITATION.—Disclosures made pursuant to clause (i) or (ii) shall not include the identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect.

“(C) DEFINITION.—For purposes of this paragraph, the term ‘near fatality’ means an act that, as certified by a physician, places the child in serious or critical condition.

“(b) DETERMINATIONS.—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a), other than the material described in paragraph (9) of such subsection. The Secretary may not require a State to include in such a plan any material not described in subsection (a).

**“SEC. 423. GRANTS TO STATES FOR CHILD PROTECTION.**

“(a) FUNDING OF BLOCK GRANTS.—

“(1) ENTITLEMENT COMPONENT.—

“(A) ELIGIBLE STATES.—Each eligible State shall be entitled to receive from the Secretary for each fiscal year specified in subsection (b)(1) a grant in an amount equal to the State share of 99 percent of the child protection amount for the fiscal year.

“(B) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary shall reserve for payments to Indian tribes (as defined in section 658P(7) of the Child Care and Development Block Grant Act of 1990) and tribal organizations (as defined in section 658P(14) of such Act) for each fiscal year specified in subsection (b)(1) an amount equal to 1 percent of the child protection amount for the fiscal year.

“(2) AUTHORIZATION COMPONENT.—

“(A) IN GENERAL.—

“(i) ELIGIBLE STATES.—For each eligible State for each fiscal year specified in subsection (b)(1), the Secretary shall supplement the grant under paragraph (1)(A) of this subsection by an amount equal to the State share of 99.64 percent of the amount (if any) appropriated pursuant to subparagraph (B) of this paragraph for the fiscal year.

“(ii) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary shall supplement the amount reserved for payments pursuant to paragraph (1)(B) of this subsection for each fiscal year specified in subsection (b)(1), by an amount equal to 0.36 percent of the amount (if any) appropriated pursuant to subparagraph (B) of this paragraph for the fiscal year.

“(B) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under subparagraph (A), there are authorized to be appropriated to the Secretary an amount not to exceed \$325,000,000 for each fiscal year specified in subsection (b)(1).

“(b) DEFINITIONS.—As used in this section:

“(1) CHILD PROTECTION AMOUNT.—The term ‘child protection amount’ means—

- “(A) \$240,000,000 for fiscal year 1997;
- “(B) \$255,000,000 for fiscal year 1998;
- “(C) \$262,000,000 for fiscal year 1999;
- “(D) \$270,000,000 for fiscal year 2000;
- “(E) \$278,000,000 for fiscal year 2001; and
- “(F) \$286,000,000 for fiscal year 2002;

“(2) STATE SHARE.—

“(A) IN GENERAL.—The term ‘State share’ means the qualified child protection expenses of the State divided by the sum of the qualified child protection expenses of all of the States.

“(B) QUALIFIED CHILD PROTECTION EXPENSES.—The term ‘qualified child protection expenses’ means, with respect to a State the greater of—

“(i) the total amount of one-third of the Federal grant amounts to the State under the provisions of law specified in clauses (i) and (ii) of subparagraph (C) for fiscal years 1992, 1993, and 1994; or

“(ii) the total amount of the Federal grant amounts to the State under the provisions of law specified in clauses (i) and (ii) of subparagraph (C) for fiscal year 1994.

“(C) PROVISIONS OF LAW.—The provisions of law specified in this subparagraph are the following (as in effect with respect to each of the fiscal years referred to in subparagraph (B)):

“(i) Section 423 of this Act.

“(ii) Section 434 of this Act.

“(D) DETERMINATION OF INFORMATION.—In determining amounts for fiscal years 1992, 1993, and 1994 under clauses (i) and (ii) of subparagraph (B), the Secretary shall use information listed as actual amounts in the Justification for Estimates for Appropriation Committees of the Administration for Children and Families for fiscal years 1994, 1995, and 1996, respectively.

“(c) USE OF GRANT.—

“(1) IN GENERAL.—A State to which a grant is made under this section may use the grant in any manner that the State deems appropriate to accomplish the purpose of this part.

“(2) TIMING OF EXPENDITURES.—A State to which a grant is made under this section for a fiscal year shall expend the total amount of the grant not later than the end of the immediately succeeding fiscal year.

“(3) RULE OF INTERPRETATION.—This part shall not be interpreted to prohibit short- and long-term foster care facilities operated for profit from receiving funds provided under this part or part E.

“(d) TIMING OF PAYMENTS.—The Secretary shall pay each eligible State the amount of the grant payable to the State under this section in quarterly installments.

“(e) PENALTIES.—

“(1) FOR USE OF GRANT IN VIOLATION OF THIS PART.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that an amount paid to a State under this section for a fiscal year has been used in violation of this part, then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount so used, plus 5 percent of the grant paid under this section to the State for such fiscal year.

“(2) FOR FAILURE TO MAINTAIN EFFORT.—

“(A) IN GENERAL.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that the amount expended by a State (other than from amounts provided by the Federal Government) during the fiscal years specified in subparagraph (B), to carry out the State program funded under this part is less than the applicable percentage specified in such subparagraph of the total amount expended by the State (other than from amounts provided by the Federal Government) during fiscal year 1994 under part B of this title (as in effect on the day before the date of the enactment of this part), then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount of the difference, plus 5 percent of the grant paid under this section to the State for such fiscal year.

“(B) SPECIFICATION OF FISCAL YEARS AND APPLICABLE PERCENTAGES.—The fiscal years and applicable percentages specified in this subparagraph are as follows:

“(i) For fiscal years 1997 and 1998, 100 percent.

“(ii) For fiscal years 1999 through 2002, 75 percent.

“(3) FOR FAILURE TO SUBMIT REQUIRED REPORT.—

“(A) IN GENERAL.—The Secretary shall reduce by 3 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a fiscal year if the Secretary determines that the State has not submitted the report required by section 424 for the immediately preceding fiscal year, within 6 months after the end of the immediately preceding fiscal year.

“(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

“(4) STATE FUNDS TO REPLACE REDUCTIONS IN GRANT.—A State which has a penalty imposed against it under this subsection for a fiscal year shall expend additional State funds in an amount equal to the amount of the penalty for the purpose of carrying out the State program under this part during the immediately succeeding fiscal year.

“(5) REASONABLE CAUSE EXCEPTION.—Except in the case of the penalty described in paragraph (2), the Secretary may not impose a penalty on a State under this subsection with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

“(6) CORRECTIVE COMPLIANCE PLAN.—

“(A) IN GENERAL.—

“(i) NOTIFICATION OF VIOLATION.—Before imposing a penalty against a State under this subsection 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 paragraph which outlines how the State will correct the violation and how the State will insure continuing compliance with this part.

“(ii) 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 clause (i) with respect to a violation, the State may submit to the Federal Government a corrective compliance plan to correct the violation.

“(iii) 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 clause (ii), the Secretary may consult with the State on modifications to the plan.

“(iv) ACCEPTANCE OF PLAN.—A corrective compliance plan submitted by a State in accordance with clause (ii) is deemed to be accepted by the Secretary if the Secretary does not accept or reject the plan during the 60-day period that begins on the date the plan is submitted.

“(B) EFFECT OF CORRECTING VIOLATION.—The Secretary may not impose any penalty under this subsection 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.

“(C) EFFECT OF FAILING TO CORRECT VIOLATION.—The Secretary shall assess some or all of a penalty imposed on a State under this subsection 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.

“(7) LIMITATION ON AMOUNT OF PENALTY.—

“(A) IN GENERAL.—In imposing the penalties described in this subsection, the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

“(B) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that subparagraph (A) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under this subsection for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under subsection (a) for the immediately succeeding fiscal year.

“(f) TREATMENT OF TERRITORIES.—

“(1) IN GENERAL.—A territory, as defined in section 1108(b)(1), shall carry out a child protection program in accordance with the provisions of this part.

“(2) PAYMENTS.—Subject to the mandatory ceiling amounts specified in section 1108, each territory, as so defined, shall be entitled to receive from the Secretary for any fiscal year an amount equal to the total obligations to the territory under

section 434 (as in effect on the day before the date of the enactment of this part) for fiscal year 1995.

“(g) LIMITATION ON FEDERAL AUTHORITY.—Except as expressly provided in this Act, the Secretary may not regulate the conduct of States under this part or enforce any provision of this part.

**“SEC. 424. DATA COLLECTION AND REPORTING.**

“(a) NATIONAL CHILD ABUSE AND NEGLECT DATA SYSTEM.—The Secretary shall establish a national data collection and analysis program—

“(1) which, to the extent practicable, coordinates existing State child abuse and neglect reports and which shall include—

“(A) standardized data on substantiated, as well as false, unfounded, or unsubstantiated reports; and

“(B) information on the number of deaths due to child abuse and neglect; and

“(2) which shall collect, compile, analyze, and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case-specific and integrated with other case-based foster care and adoption data collected by the Secretary.

“(b) ADOPTION AND FOSTER CARE AND ANALYSIS AND REPORTING SYSTEMS.—The Secretary shall implement a system for the collection of data relating to adoption and foster care in the United States. Such data collection system shall—

“(1) avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;

“(2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;

“(3) provide comprehensive national information with respect to—

“(A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents;

“(B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care);

“(C) the number and characteristics of—

“(i) children placed in or removed from foster care;

“(ii) children adopted or with respect to whom adoptions have been terminated; and

“(iii) children placed in foster care outside the State which has placement and care responsibility; and

“(D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided; and

“(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.

“(c) **ADDITIONAL INFORMATION.**—The Secretary may require the provision of additional information under the data collection system established under subsection (b) if the addition of such information is agreed to by a majority of the States.

“(d) **ANNUAL REPORT BY THE SECRETARY.**—Not later than 6 months after the end of each fiscal year, the Secretary shall prepare a report based on information provided by the States for the fiscal year pursuant to this section, and shall make the report and such information available to the Congress and the public.

**“SEC. 425. FUNDING FOR STUDIES OF CHILD WELFARE.**

“(a) **NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE.**—There are authorized to be appropriated and there are appropriated to the Secretary for each of fiscal years 1996 through 2002—

“(1) \$6,000,000 to conduct a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected under section 208 of the Child and Family Services Block Grant Act of 1996; and

“(2) \$10,000,000 for such other research as may be necessary under such section.

“(b) **ASSESSMENT OF STATE COURTS IMPROVEMENT OF HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION.**—There are authorized to be appropriated and there are appropriated to the Secretary for each of fiscal years 1996 through 1998 \$10,000,000 for the purpose of carrying out section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note). All funds appropriated under this subsection shall be expended not later than September 30, 1999.

**“SEC. 426. DEFINITIONS.**

“For purposes of this part and part E, the following definitions shall apply:

“(1) **ADMINISTRATIVE REVIEW.**—The term ‘administrative review’ means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

“(2) **ADOPTION ASSISTANCE AGREEMENT.**—The term ‘adoption assistance agreement’ means a written agreement, binding on the parties to the agreement, between the State, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum—

“(A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement; and

“(B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time.

The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.



“(3) CASE PLAN.—The term ‘case plan’ means a written document which includes at least the following:

“(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 472(a)(1).

“(B) A plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents’ home, facilitate return of the child to his or her own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

“(C) To the extent available and accessible, the health and education records of the child, including—

“(i) the names and addresses of the child’s health and educational providers;

“(ii) the child’s grade level performance;

“(iii) the child’s school record;

“(iv) assurances that the child’s placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;

“(v) a record of the child’s immunizations;

“(vi) the child’s known medical problems;

“(vii) the child’s medications; and

“(viii) any other relevant health and education information concerning the child determined to be appropriate by the State.

Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

“(4) CASE REVIEW SYSTEM.—The term ‘case review system’ means a procedure for assuring that—

“(A) each child has a case plan designed to achieve placement in the least restrictive (most family-like) and most appropriate setting available and in close proximity to the parents’ home, consistent with the best interests and special needs of the child, which—

“(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child; and

“(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State in which the home of the parents of

the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State in which the home of the parents of the child is located;

“(B) the status of each child is reviewed periodically but no less frequently than once every 6 months by either a court or by administrative review (as defined in paragraph (1)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship;

“(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 18 months after the original placement (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child’s special needs or circumstances) be continued in foster care on a permanent or long-term basis) and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living; and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child’s placement, and to any determination affecting visitation privileges of parents; and

“(D) a child’s health and education record (as described in paragraph (3)(C)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.

“(5) CHILD-CARE INSTITUTION.—The term ‘child-care institution’ means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or

any other facility operated primarily for the detention of children who are determined to be delinquent.

“(6) FOSTER CARE MAINTENANCE PAYMENTS.—

“(A) IN GENERAL.—The term ‘foster care maintenance payments’ means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to a child, and reasonable travel to the child’s home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

“(B) SPECIAL RULE.—In cases where—

“(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution; and

“(ii) payments described in subparagraph (A) are being made under this part with respect to such child, the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

“(7) FOSTER FAMILY HOME.—The term ‘foster family home’ means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing.

“(8) PARENTS.—The term ‘parents’ means biological or adoptive parents or legal guardians, as determined by applicable State law.

“(9) STATE.—The term ‘State’ means the 50 States and the District of Columbia.

“(10) VOLUNTARY PLACEMENT.—The term ‘voluntary placement’ means an out-of-home placement of a minor, by or with participation of the State, after the parents or guardians of the minor have requested the assistance of the State and signed a voluntary placement agreement.

“(11) VOLUNTARY PLACEMENT AGREEMENT.—The term ‘voluntary placement agreement’ means a written agreement, binding on the parties to the agreement, between the State, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.”.

#### **SEC. 4702. CONFORMING AMENDMENTS.**

(a) AMENDMENTS TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—

(1) Section 452(a)(10)(C) of the Social Security Act (42 U.S.C. 652(a)(10)(C)), as amended by section 4108(b)(2) of this Act, is amended by striking “or under section 471(a)(17),”.

(2) Section 452(g)(2)(A) of such Act (42 U.S.C. 652(g)(2)(A)), as amended by paragraphs (6) and (7) of section 4108(b) of this Act, is amended by inserting “or benefits or services for foster care maintenance were being provided under the State program funded under part E” after “part A” each place it appears.

(3) Section 466(a)(3)(B) of such Act (42 U.S.C. 666(a)(3)(B)), as amended by section 4108(b)(14) of this Act, is amended by striking “or 471(a)(17)”.

(b) AMENDMENT TO SECTION 9442 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986.—Section 9442(4) of the Omnibus Budget Reconciliation Act of 1986 (42 U.S.C. 679a(4)) is amended by inserting “(as in effect before October 1, 1995)” after “Act”.

(c) REDESIGNATION AND AMENDMENTS OF SECTION 1123.—

(1) REDESIGNATION.—The Social Security Act is amended by redesignating section 1123, the second place it appears (42 U.S.C. 1320a–1a), as section 1123A.

(2) AMENDMENTS.—Section 1123A of such Act, as so redesignated, is amended in subsection (a)—

(A) by striking “The Secretary” and inserting “Notwithstanding section 423(g), the Secretary”; and

(B) in paragraph (2), by inserting “under this section” after “promulgated”.

### **Subchapter B—Foster Care, Adoption Assistance, and Independent Living Programs**

#### **SEC. 4711. CONFORMING AMENDMENTS TO PART E OF TITLE IV.**

(a) PURPOSE; APPROPRIATION.—Section 470 of the Social Security Act (42 U.S.C. 670) is amended—

(1) by amending the heading to read as follows:

“**SEC. 470. PURPOSE; APPROPRIATION.**”; and

(2) in the second sentence, by striking “this part” and inserting “section 422”.

(b) STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE.—Section 471 of such Act (42 U.S.C. 671) is amended to read as follows:

“**SEC. 471. ELIGIBLE STATES.**

“In order for a State to be eligible for payments under this part, the State shall have submitted to the Secretary a plan which satisfies the requirements of section 422.”.

(c) FOSTER CARE MAINTENANCE PAYMENTS PROGRAM.—Section 472 of such Act (42 U.S.C. 672) is amended to read as follows:

“**SEC. 472. REQUIREMENTS FOR FOSTER CARE MAINTENANCE PAYMENTS.**

“(a) IN GENERAL.—Each State operating a program under this part shall make foster care maintenance payments, as defined in section 426(6) with respect to a child who would meet the requirements of section 406(a) (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996) or of section 407 (as so in effect) but for the removal of the child from the home of a relative (specified in section 406(a) (as so in effect)), if—

“(1) the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child’s parent or legal guardian, or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and that reasonable efforts of the type described in section 422(a)(12) have been made;

“(2) such child’s placement and care are the responsibility of—

“(A) the State; or

“(B) any other public agency with which the State has made an agreement for the administration of the State program under this part which is still in effect;

“(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial determination referred to in paragraph (1); and

“(4) such child—

“(A) would have been eligible to receive aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this part and adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated; or

“(B) would have received such aid in or for such month if application had been made therefor, or the child had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefor had been made.

“(b) LIMITATION ON FOSTER CARE PAYMENTS.—Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

“(1) in the foster family home of an individual, whether the payments therefore are made to such individual or to a public or private child placement or child-care agency; or

“(2) in a child-care institution, whether the payments therefore are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term ‘foster care maintenance payments’ (as defined in section 426(6)).

“(c) VOLUNTARY PLACEMENTS.—

“(1) SATISFACTION OF CHILD PROTECTION STANDARDS.—Notwithstanding any other provision of this section, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this part, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts

were expended) the State has fulfilled all of the requirements of section 422(a)(11).

“(2) REMOVAL IN EXCESS OF 180 DAYS.—No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments, in the case of any child who was removed from such child’s home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) that such placement is in the best interests of the child.

“(3) DEEMED REVOCATION OF AGREEMENTS.—In any case where—

“(A) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a); and

“(B) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child’s best interests.

“(d) ELIGIBILITY FOR MEDICAL ASSISTANCE.—For purposes of title XIX (or, if applicable, title XV) and title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a recipient of cash assistance under part A of this title. For the purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 426(6)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.”.

(d) ADOPTION ASSISTANCE PROGRAM.—Section 473 of such Act (42 U.S.C. 673) is amended to read as follows:

**“SEC. 473. REQUIREMENTS FOR ADOPTION ASSISTANCE PAYMENTS.**

“(a) IN GENERAL.—A State operating a program under this part shall enter into adoption assistance agreements with the adoptive parents of children with special needs.

“(b) PAYMENTS UNDER AGREEMENTS.—

“(1) IN GENERAL.—Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

“(A) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, in amounts determined under subsection (e), and

“(B) in any case where the child meets the requirements of subsection (d), may make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

“(2) DEFINITION OF NONRECURRING ADOPTION EXPENSES.—

“(A) IN GENERAL.—For purposes of paragraph (1)(A), the term ‘nonrecurring adoption expenses’ means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

“(B) TREATMENT AS AN ADMINISTRATIVE EXPENSE.—A State’s payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(E).

“(c) ELIGIBILITY FOR MEDICAL ASSISTANCE.—For purposes of title XIX (or, if applicable, title XV) and title XX, any child—

“(1)(A) who is a child described in subsection (b), and

“(B) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

“(2) with respect to whom foster care maintenance payments are being made under section 472,

is deemed to be a recipient of cash assistance under part A of this title in the State where such child resides. For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 426(6)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.

“(d) CHILDREN WITH SPECIAL NEEDS.—For purposes of subsection (b)(1)(B), a child meets the requirements of this subsection if such child—

“(1)(A) at the time adoption proceedings were initiated, met the requirements of section 406(a) (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996) or section 407 (as so in effect) or would have met such requirements except for such child’s removal from the home of a relative (specified in section 406(a) (as so in effect)), either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or 403 (as so in effect)) or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

“(B) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

“(C) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent;

“(2)(A) would have received aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this part, adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated;

“(B) would have received such aid in or for such month if application had been made therefor, or had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefor had been made; or

“(C) is a child described in subparagraph (A) or (B); and

“(3) has been determined by the State, pursuant to subsection (h) of this section, to be a child with special needs.

“(e) DETERMINATION OF PAYMENTS.—The amount of the payments to be made in any case under subsection (b) shall be determined through agreement between the adoptive parents and the State or a public or nonprofit private agency administering the program under this part, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

“(f) PAYMENT EXCEPTION.—Notwithstanding subsection (e), no payment may be made to parents with respect to any child who has attained the age of 18 (or, where the State determines that the child has a mental or physical disability which warrants the continuation of assistance, the age of 21), and no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this part shall keep the State or public or nonprofit private agency administering the program under this part informed of circumstances which would, pursuant to this section, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

“(g) PREADoption PAYMENTS.—For purposes of this part, individuals with whom a child who has been determined by the State, pursuant to subsection (h), to be a child with special needs is placed for adoption in accordance with applicable State and local



law shall be eligible for adoption assistance payments during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

“(h) DETERMINATION OF CHILD WITH SPECIAL NEEDS.—For purposes of this section, a child shall not be considered a child with special needs unless—

“(1) the State has determined that the child cannot or should not be returned to the home of the child’s parents; and

“(2) the State had first determined—

“(A) that there exists with respect to the child a specific factor or condition such as the child’s ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this part or medical assistance under title XV or XIX; and

“(B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XV or XIX.”

(e) PAYMENTS TO STATES; ALLOTMENTS TO STATES.—Section 474 of such Act (42 U.S.C. 674) is amended to read as follows:

**“SEC. 474. PAYMENTS TO STATES; ALLOTMENTS TO STATES.**

“(a) FOSTER CARE, ADOPTION ASSISTANCE, AND INDEPENDENT LIVING PROGRAMS PAYMENTS.—Each eligible State, as determined under section 471, shall be entitled to receive from the Secretary for each quarter of each fiscal year a payment equal to the sum of—

“(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996) of the total amount expended during such quarter as foster care maintenance payments under the child protection program under this part for children in foster family homes or child-care institutions; plus

“(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act (as so in effect)) of the total amount expended during such quarter as adoption assistance payments under the child protection program under this part pursuant to adoption assistance agreements; plus

“(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the provision of child placement services and for the proper and efficient administration of the State foster care and adoption assistance program—

“(A) 75 percent of so much of such expenditures as are for the training (including both short and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision;

“(B) 75 percent of so much of such expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective foster or adoptive parents and the members of the staff of State-licensed or State-approved child care institutions providing care to foster and adopted children receiving assistance under this part, in ways that increase the ability of such current or prospective parents, staff members, and institutions to provide support and assistance to foster and adopted children, whether incurred directly by the State or by contract;

“(C) 50 percent (or, if the quarter is in fiscal year 1997, 75 percent) of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 50 percent (or, if the quarter is in fiscal year 1997, 75 percent) of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—

“(i) meet the requirements imposed by regulations;

“(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

“(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and

“(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under this part;

“(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and

“(E) one-half of the remainder of such expenditures; plus

“(4) an amount equal to the sum of—

“(A) so much of the amounts expended by such State to carry out a program under section 476, as do not exceed the basic amount for such State determined under subsection (e)(1) of such section; and

“(B) the lesser of—

“(i) one-half of any additional amounts expended by such State for such programs; or

“(ii) the maximum additional amount for such State under subsection (e)(1) of such section.

“(b) AUTOMATED DATA COLLECTION EXPENDITURES.—The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems, without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.

“(c) ESTIMATES BY THE SECRETARY.—

“(1) IN GENERAL.—The Secretary shall, prior to the beginning of each quarter, estimate the amount which a State will be entitled to receive 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 subsection (a), 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;

“(B) records showing the number of children in the State receiving assistance under this part; and

“(C) such other information as the Secretary may find necessary.

“(2) PAYMENTS.—The Secretary shall pay to the States the amounts so estimated under paragraph (1), reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this subsection to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

“(3) PRO RATA SHARE.—The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under this part shall be considered an overpayment to be adjusted under this subsection.

“(d) ALLOWANCE OR DISALLOWANCE OF CLAIM.—

“(1) IN GENERAL.—Within 60 days after receipt of a State claim for expenditures pursuant to subsection (b)(1), the Secretary shall allow, disallow, or defer such claim.

“(2) NOTICE.—Within 15 days after a decision to defer a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

“(3) DECISION.—Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

“(A) disallow the claim, if able to complete the review and determine that the claim is not allowable; or

“(B) in any other case, allow the claim, subject to disallowance (as necessary)—

“(i) upon completion of the review, if it is determined that the claim is not allowable; or

“(ii) on the basis of findings of an audit or financial management review.”.

(f) **DEFINITIONS.**—Section 475 of such Act (42 U.S.C. 675) is amended to read as follows:

**“SEC. 475. DEFINITIONS.**

For definitions of terms used in this part, see section 426.”.

(g) **TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION.**—Part E of title IV of such Act is amended by striking section 476.

(h) **INDEPENDENT LIVING INITIATIVES.**—Part E of title IV of such Act (42 U.S.C. 670 et seq.), as amended by subsection (g) of this section, is amended—

(1) by redesignating section 477 as section 476; and

(2) by amending section 476, as so redesignated, to read as follows:

**“SEC. 476. REQUIREMENTS FOR INDEPENDENT LIVING PROGRAMS.**

**“(a) PAYMENTS FOR INDEPENDENT LIVING PROGRAMS.—**

**“(1) IN GENERAL.**—Payments shall be made in accordance with this section for the purpose of assisting States and localities in establishing and carrying out programs designed to assist children described in paragraph (2) who have attained age 16 in making the transition from foster care to independent living. Any State which provides for the establishment and carrying out of one or more such programs in accordance with this section for a fiscal year shall be entitled to receive payments under this section for such fiscal year, in an amount determined under subsection (e).

**“(2) PROGRAM REQUIREMENTS.**—A program established and carried out under paragraph (1)—

**“(A)** shall be designed to assist children with respect to whom foster care maintenance payments are being made by the State under this part;

**“(B)** may at the option of the State also include any or all other children in foster care under the responsibility of the State; and

**“(C)** may at the option of the State also include any child who has not attained age 21 to whom foster care maintenance payments were previously made by a State under this part and whose payments were discontinued on or after the date such child attained age 16, and any child who previously was in foster care described in subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.

“(b) USE OF FUNDS.—Payment under this section shall be made to the State, and shall be used for the purpose of conducting and providing in accordance with this section (directly or under contracts with local governmental entities or private nonprofit organizations) the activities and services required to carry out the program or programs involved.

“(c) SUBMISSION OF PROGRAM DESCRIPTION AND ASSURANCES.—In order for a State to receive payments under this section for any fiscal year, the State, prior to February 1 of such fiscal year, must submit to the Secretary, in such manner and form as the Secretary may prescribe, a description of the program together with satisfactory assurances that the program will be operated in an effective and efficient manner and will otherwise meet the requirements of this section.

“(d) PROGRAM OBJECTIVES.—In carrying out the purpose described in subsection (a), it shall be the objective of each program established under this section to help the individuals participating in such program to prepare to live independently upon leaving foster care. Such programs may include (subject to the availability of funds) programs to—

“(1) enable participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training;

“(2) provide training in daily living skills, budgeting, locating and maintaining housing, and career planning;

“(3) provide for individual and group counseling;

“(4) integrate and coordinate services otherwise available to participants;

“(5) provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the program;

“(6) provide each participant a written transitional independent living plan which shall be based on an assessment of his needs, and which shall be incorporated into his case plan, as defined in section 426(3); and

“(7) provide participants with other services and assistance designed to improve their transition to independent living.

“(e) DETERMINATION OF PAYMENTS.—

“(1) BASIC AMOUNT.—

“(A) IN GENERAL.—The basic amount to which a State shall be entitled under section 474(a)(4) for a fiscal year shall be an amount which bears the same ratio to the basic ceiling for such fiscal year as such State’s average number of children receiving foster care maintenance payments under part E in fiscal year 1984 bore to the total of the average number of children receiving such payments under such part for all States for fiscal year 1984.

“(B) MAXIMUM ADDITIONAL AMOUNT.—The maximum additional amount to which a State shall be entitled under section 474(a)(4) for a fiscal year shall be an amount which bears the same ratio to the additional ceiling for such fiscal year as the basic amount of such State bears to \$45,000,000.

“(C) DEFINITIONS.—For purposes of this section:

“(i) BASIC CEILING.—The term ‘basic ceiling’ means, for any fiscal year, \$45,000,000.

“(ii) ADDITIONAL CEILING.—The term ‘additional ceiling’ means, for any fiscal year, \$25,000,000.

“(2) REALLOCATION OF FUNDS.—If any State does not apply for funds under this section for any fiscal year within the time provided in subsection (c), the funds to which such State would have been entitled for such fiscal year shall be reallocated to one or more other States on the basis of their relative need for additional payments under this section (as determined by the Secretary).

“(3) SUPPLEMENT TO OTHER FUNDS.—Any amounts payable to States under this section shall be in addition to amounts payable to States under paragraphs (1), (2), and (3) of section 474(a), and shall supplement and not replace any other funds which may be available for the same general purposes in the localities involved.

“(f) LIMITATION ON USE OF FUNDS.—Payments made to a State under this section for any fiscal year—

“(1) shall be used only for the specific purposes described in this section;

“(2) may not be used for the provision of room or board;

“(3) may be made on an estimated basis in advance of the determination of the exact amount, with appropriate subsequent adjustments to take account of any error in the estimates; and

“(4) shall be expended by such State in such fiscal year or in the succeeding fiscal year.

“(g) REPORTING REQUIREMENTS.—Not later than the first January 1 following the end of each fiscal year, each State shall submit to the Secretary a report on the programs carried out during such fiscal year with the amounts received under this section. Such report shall be in such form and contain such information as may be necessary to provide an accurate description of such activities, to provide a complete record of the purposes for which the funds were spent, and to indicate the extent to which the expenditure of such funds succeeded in accomplishing the purpose described in subsection (a).

“(h) ASSISTANCE NOT CONSIDERED INCOME OR RESOURCES.—Notwithstanding any other provision of this title, payments made and services provided to participants in a program under this section, as a direct consequence of their participation in such program, shall not be considered as income or resources for purposes of determining eligibility (or the eligibility of any other persons) for assistance under the State’s plan approved under this part or part A, or for purposes of determining the level of such assistance.”.

(i) COLLECTION OF DATA RELATING TO ADOPTION AND FOSTER CARE.—Part E of title IV of such Act (42 U.S.C. 670 et seq.) is amended—

(1) by redesignating section 479 as section 477; and

(2) by amending section 477, as so redesignated, to read as follows:

**“SEC. 477. COLLECTION OF DATA RELATING TO ADOPTION AND FOSTER CARE.**

“For requirements with respect to the collection of data relating to adoption and foster care, see section 424.”.

**Subchapter C—Miscellaneous**

**SEC. 4721. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.**

Not later than 90 days after the date of the enactment of this chapter, the Secretary of Health and Human Services, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

**SEC. 4722. SENSE OF THE CONGRESS REGARDING TIMELY ADOPTION OF CHILDREN.**

It is the sense of the Congress that—

(1) too many children who wish to be adopted are spending inordinate amounts of time in foster care;

(2) there is an urgent need for States to increase the number of waiting children being adopted in a timely and lawful manner;

(3) studies have shown that States spend an excess of \$15,000 each year on each special needs child in foster care, and would save significant amounts of money if they offered incentives to families to adopt special needs children;

(4) States should allocate sufficient funds under this subtitle for adoption assistance and medical assistance to encourage more families to adopt children who otherwise would languish in the foster care system for a period that many experts consider detrimental to their development;

(5) States should offer incentives for families that adopt special needs children to make adoption more affordable for middle-class families;

(6) when it is necessary for a State to remove a child from the home of the child’s biological parents, the State should strive—

(A) to provide the child with a single foster care placement and a single coordinated case team; and

(B) to conclude an adoption of the child, when adoption is the goal of the child and the State, within one year of the child’s placement in foster care; and

(7) States should participate in local, regional, or national programs to enable maximum visibility of waiting children to potential parents. Such programs should include a nationwide, interactive computer network to disseminate information on children eligible for adoption to help match them with families around the country.

**SEC. 4723. EFFECTIVE DATE; TRANSITION RULES.**

(a) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), this chapter and the amendments made by this chapter shall be effective on and after October 1, 1996.

(2) EXCEPTION.—Section 425 of the Social Security Act, as added by section 4701 of this Act, shall take effect on the date of the enactment of this chapter.

(3) TEMPORARY REDESIGNATION OF SECTION 425.—During the period beginning on the date of the enactment of this chapter and ending on October 1, 1996, section 425 of the Social Security Act, as added by section 4701 of this Act, is redesignated as section 425A.

(b) TRANSITION RULES.—

(1) 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.

(2) 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 under programs which are repealed or substantially amended in this chapter and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—

(A) use the single audit procedure to review and resolve any claims in connection with the closeout of programs; and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this chapter.

## **CHAPTER 2—CHILD AND FAMILY SERVICES BLOCK GRANT**

### **SEC. 4751. CHILD AND FAMILY SERVICES BLOCK GRANT.**

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended to read as follows:

#### **“SECTION 1. SHORT TITLE.**

“This Act may be cited as the ‘Child and Family Services Block Grant Act of 1996’.

#### **“SEC. 2. FINDINGS.**

“The Congress finds the following:

“(1) Each year, close to 1,000,000 American children are victims of abuse and neglect.

“(2) Many of these children and their families fail to receive adequate protection or treatment.



“(3) The problem of child abuse and neglect requires a comprehensive approach that—

“(A) integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;

“(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;

“(C) emphasizes the need for abuse and neglect prevention, assessment, investigation, and treatment at the neighborhood level;

“(D) ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and

“(E) is sensitive to ethnic and cultural diversity.

“(4) The child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social reintegration in an environment that fosters the health, safety, self-respect, and dignity of the child.

“(5) The Federal Government should provide leadership and assist communities in their child and family protection efforts by—

“(A) generating and sharing knowledge relevant to child and family protection, including the development of models for service delivery;

“(B) strengthening the capacity of States to assist communities;

“(C) helping communities to carry out their child and family protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

“(D) providing leadership to end the abuse and neglect of the Nation’s children and youth.

### “SEC. 3. PURPOSES.

“The purposes of this Act are the following:

“(1) To assist each State in improving the child protective service systems of such State by—

“(A) improving risk and safety assessment tools and protocols;

“(B) developing, strengthening, and facilitating training opportunities for individuals who are mandated to report child abuse or neglect or otherwise overseeing, investigating, prosecuting, or providing services to children and families who are at risk of abusing or neglecting their children; and

“(C) developing, implementing, or operating information, education, training, or other programs designed to assist and provide services for families of disabled infants with life-threatening conditions.

“(2) To support State efforts to develop, operate, expand and enhance a network of community-based, prevention-fo-

cused, family resource and support programs that are culturally competent and that coordinate resources among existing education, vocational rehabilitation, disability, respite, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State.

“(3) To facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs, including disabled infants with life-threatening conditions, by—

“(A) promoting model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption;

“(B) providing a mechanism for the Department of Health and Human Services to—

“(i) promote quality standards for adoption services, preplacement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

“(ii) maintain a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and

“(iii) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan; and

“(C) facilitating the identification and recruitment of foster and adoptive families that can meet children’s needs.

“(4) To respond to the needs of children, in particular those who are drug exposed or afflicted with Acquired Immune Deficiency Syndrome (AIDS), by supporting activities aimed at preventing the abandonment of children, providing support to children and their families, and facilitating the recruitment and training of health and social service personnel.

“(5) To carry out any other activities as the Secretary determines are consistent with this Act.

#### “SEC. 4. DEFINITIONS.

“As used in this Act:

“(1) CHILD.—The term ‘child’ means a person who has not attained the lesser of—

“(A) the age of 18; or

“(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides.

“(2) CHILD ABUSE AND NEGLECT.—The term ‘child abuse and neglect’ means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in

death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.

“(3) FAMILY RESOURCE AND SUPPORT PROGRAMS.—The term ‘family resource and support program’ means a community-based, prevention-focused entity that—

“(A) provides, through direct service, the core services required under this Act, including—

“(i) parent education, support and leadership services, together with services characterized by relationships between parents and professionals that are based on equality and respect, and designed to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

“(ii) services to facilitate the ability of parents to serve as resources to one another (such as through mutual support and parent self-help groups);

“(iii) early developmental screening of children to assess any needs of children, and to identify types of support that may be provided;

“(iv) outreach services provided through voluntary home visits and other methods to assist parents in becoming aware of and able to participate in family resources and support program activities;

“(v) community and social services to assist families in obtaining community resources; and

“(vi) followup services;

“(B) provides, or arranges for the provision of, other core services through contracts or agreements with other local agencies; and

“(C) provides access to optional services, directly or by contract, purchase of service, or interagency agreement, including—

“(i) child care, early childhood development and early intervention services;

“(ii) self-sufficiency and life management skills training;

“(iii) education services, such as scholastic tutoring, literacy training, and General Educational Degree services;

“(iv) job readiness skills;

“(v) child abuse and neglect prevention activities;

“(vi) services that families with children with disabilities or special needs may require;

“(vii) community and social service referral;

“(viii) peer counseling;

“(ix) referral for substance abuse counseling and treatment; and

“(x) help line services.

“(4) INDIAN TRIBE AND TRIBAL ORGANIZATION.—The terms ‘Indian tribe’ and ‘tribal organization’ shall have the same meanings given such terms in subsections (e) and (l), respec-

tively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e) and (l)).

“(5) RESPITE SERVICES.—The term ‘respite services’ means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

“(A) are in danger of abuse or neglect;

“(B) have experienced abuse or neglect; or

“(C) have disabilities, chronic, or terminal illnesses.

Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(7) SEXUAL ABUSE.—The term ‘sexual abuse’ includes—

“(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

“(B) the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children.

“(8) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

“(9) WITHHOLDING OF MEDICALLY INDICATED TREATMENT.—The term ‘withholding of medically indicated treatment’ means the failure to respond to the infant’s life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment—

“(A) the infant is chronically and irreversibly comatose;

“(B) the provision of such treatment would—

“(i) merely prolong dying;

“(ii) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or

“(iii) otherwise be futile in terms of the survival of the infant; or

“(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

## **“TITLE I—GENERAL BLOCK GRANT**

### **“SEC. 101. CHILD AND FAMILY SERVICES BLOCK GRANTS.**

“(a) **ELIGIBILITY.**—The Secretary shall award grants to eligible States that file a State plan that is approved under section 102 and that otherwise meet the eligibility requirements for grants under this title.

“(b) **AMOUNT OF GRANT.**—The amount of a grant made to each State under subsection (a) for a fiscal year shall be based on the population of children under the age of 18 residing in each State that applies for a grant under this section.

“(c) **USE OF AMOUNTS.**—Amounts received by a State under a grant awarded under subsection (a) shall be used to carry out the purposes described in section 3.

### **“SEC. 102. ELIGIBLE STATES.**

“(a) **IN GENERAL.**—As used in this title, the term ‘eligible State’ means a State that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:

“(1) **OUTLINE OF CHILD PROTECTION PROGRAM.**—A written document that outlines the activities the State intends to conduct to achieve the purpose of this title, including the procedures to be used for—

“(A) receiving and assessing reports of child abuse or neglect;

“(B) investigating such reports;

“(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;

“(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

“(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;

“(F) protecting children in foster care;

“(G) promoting timely adoptions;

“(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards; and

“(I) providing services to individuals, families, or communities, either directly or through referral, that are aimed at preventing the occurrence of child abuse and neglect.

“(2) **CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.**—A certification that the State has in effect laws that require public officials and other professionals to report, in good faith, actual or suspected instances of child abuse or neglect.

“(3) CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.

“(4) CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.

“(5) CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.—A certification that the State has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

“(6) CERTIFICATION OF PROVISIONS AND PROCEDURES RELATING TO APPEALS.—A certification that not later than 2 years after the date of the enactment of this Act, the State shall have laws and procedures in effect affording individuals an opportunity to appeal an official finding of abuse or neglect.

“(7) CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.

“(8) CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.

“(9) CERTIFICATION OF STATE PROCEDURES TO RESPOND TO REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

“(A) IN GENERAL.—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

“(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

“(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

“(iii) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

“(B) WITHHOLDING OF MEDICALLY INDICATED TREATMENT.—As used in subparagraph (A), the term ‘withholding of medically indicated treatment’ means the failure to respond to the infant’s life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that such term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment—

“(i) the infant is chronically and irreversibly comatose;

“(ii) the provision of such treatment would—

“(I) merely prolong dying;

“(II) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or

“(III) otherwise be futile in terms of the survival of the infant; or

“(iii) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

“(10) IDENTIFICATION OF CHILD PROTECTION GOALS.—The quantitative goals of the State child protection program.

“(11) CERTIFICATION OF CHILD PROTECTION STANDARDS.—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—

“(A) has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

“(i) the appropriateness of, and necessity for, the foster care placement;

“(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

“(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

“(B) is operating, to the satisfaction of the Secretary—

“(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

“(ii) a case review system for each child receiving foster care under the supervision of the State;

“(iii) a service program designed to help children—

“(I) where appropriate, return to families from which they have been removed; or

“(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

“(iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and

“(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

“(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.

“(12) CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.—A certification that the State in each case will—

“(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child’s home, and to make it possible for the child to return home; and

“(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children where the State makes a determination that the child may safely remain with the family.

“(13) CERTIFICATION OF CONFIDENTIALITY AND REQUIREMENTS FOR INFORMATION DISCLOSURE.—

“(A) IN GENERAL.—A certification that the State has in effect and operational—

“(i) requirements ensuring that reports and records made and maintained pursuant to the purposes of this part shall only be made available to—

“(I) individuals who are the subject of the report;

“(II) Federal, State, or local government entities, or any agent of such entities, having a need



for such information in order to carry out their responsibilities under law to protect children from abuse and neglect;

“(III) child abuse citizen review panels;

“(IV) child fatality review panels;

“(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

“(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose; and

“(ii) provisions that allow for public disclosure of the findings or information about cases of child abuse or neglect that have resulted in a child fatality or near fatality.

“(B) LIMITATION.—Disclosures made pursuant to clause (i) or (ii) shall not include the identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect.

“(C) DEFINITION.—For purposes of this paragraph, the term ‘near fatality’ means an act that, as certified by a physician, places the child in serious or critical condition.

“(b) DETERMINATIONS.—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a), other than the material described in paragraph (9) of such subsection. The Secretary may not require a State to include in such a plan any material not described in subsection (a).

#### “SEC. 103. DATA COLLECTION AND REPORTING.

“(a) NATIONAL CHILD ABUSE AND NEGLECT DATA SYSTEM.—The Secretary shall establish a national data collection and analysis program—

“(1) which, to the extent practicable, coordinates existing State child abuse and neglect reports and which shall include—

“(A) standardized data on substantiated, as well as false, unfounded, or unsubstantiated reports; and

“(B) information on the number of deaths due to child abuse and neglect; and

“(2) which shall collect, compile, analyze, and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case-specific and integrated with other case-based foster care and adoption data collected by the Secretary.

“(b) ADOPTION AND FOSTER CARE AND ANALYSIS AND REPORTING SYSTEMS.—The Secretary shall implement a system for the collection of data relating to adoption and foster care in the United States. Such data collection system shall—

“(1) avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;

“(2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;

“(3) provide comprehensive national information with respect to—

“(A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents;

“(B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care);

“(C) the number and characteristics of—

“(i) children placed in or removed from foster care;

“(ii) children adopted or with respect to whom adoptions have been terminated; and

“(iii) children placed in foster care outside the State which has placement and care responsibility; and

“(D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided; and

“(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.

“(c) ADDITIONAL INFORMATION.—The Secretary may require the provision of additional information under the data collection system established under subsection (b) if the addition of such information is agreed to by a majority of the States.

“(d) ANNUAL REPORT BY THE SECRETARY.—Within 6 months after the end of each fiscal year, the Secretary shall prepare a report based on information provided by the States for the fiscal year pursuant to this section, and shall make the report and such information available to the Congress and the public.

## **“TITLE II—RESEARCH, DEMONSTRATIONS, TRAINING, AND TECHNICAL ASSISTANCE**

### **“SEC. 201. RESEARCH GRANTS.**

“(a) IN GENERAL.—The Secretary, in consultation with appropriate Federal officials and recognized experts in the field, shall award grants or contracts for the conduct of research in accordance with subsection (b).

“(b) RESEARCH.—Research projects to be conducted using amounts received under this section—

“(1) shall be designed to provide information to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of any such research conducted under a project being field initiated;

“(2) shall at a minimum, focus on—

“(A) the nature and scope of child abuse and neglect;

“(B) the causes, prevention, assessment, identification, treatment, cultural and socioeconomic distinctions, and the consequences of child abuse and neglect;

“(C) appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse; and

“(D) the national incidence of child abuse and neglect, including—

“(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;

“(ii) the incidence of substantiated and unsubstantiated reported child abuse cases;

“(iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;

“(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;

“(v) the extent to which the lack of adequate resources and the lack of adequate training of reporters have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;

“(vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;

“(vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;

“(viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care;

“(ix) the incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system; and

“(x) the cases of children reunited with their families or receiving family preservation services that result in subsequent substantiated reports of child abuse and neglect, including the death of the child; and

“(3) may include the appointment of an advisory board to—

“(A) provide recommendations on coordinating Federal, State, and local child abuse and neglect activities at the State level with similar activities at the State and local level pertaining to family violence prevention;

“(B) consider specific modifications needed in State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate

cases of abuse or neglect which place a child in danger; and

“(C) provide recommendations for modifications needed to facilitate coordinated national and Statewide data collection with respect to child protection and child welfare.

**“SEC. 202. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.**

“(a) ESTABLISHMENT.—The Secretary shall, through the Department of Health and Human Services, or by one or more contracts of not less than 3 years duration provided through a competition, establish a national clearinghouse for information relating to child abuse.

“(b) FUNCTIONS.—The Secretary shall, through the clearinghouse established by subsection (a)—

“(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect;

“(2) maintain and disseminate information relating to—

“(A) the incidence of cases of child abuse and neglect in the United States;

“(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 (as such section was in effect on the day before the date of enactment of this Act); and

“(C) the incidence of any such cases related to alcohol or drug abuse;

“(3) disseminate information related to data collected and reported by States pursuant to section 103;

“(4) compile, analyze, and publish a summary of the research conducted under section 201; and

“(5) solicit public comment on the components of such clearinghouse.

**“SEC. 203. GRANTS FOR DEMONSTRATION PROJECTS.**

“(a) AWARDING OF GENERAL GRANTS.—The Secretary may make grants to, and enter into contracts with, public and nonprofit private agencies or organizations (or combinations of such agencies or organizations) for the purpose of developing, implementing, and operating time limited, demonstration programs and projects for the following purposes:

“(1) INNOVATIVE PROGRAMS AND PROJECTS.—The Secretary may award grants to public agencies that demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective service agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that—

“(A) accepts, screens and assesses reports received to determine which such reports require an intensive inter-

vention and which require voluntary referral to another agency, program or project;

“(B) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

“(C) provides further investigation and intensive intervention where the child’s safety is in jeopardy.

“(2) KINSHIP CARE PROGRAMS AND PROJECTS.—The Secretary may award grants to public entities to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where, to the maximum extent practicable, such relatives comply with relevant State child protection standards.

“(3) ADOPTION OPPORTUNITIES.—The Secretary may award grants to public entities to assist such entities in developing or implementing programs to expand opportunities for the adoption of children with special needs.

“(4) FAMILY RESOURCE CENTERS.—The Secretary may award grants to public or nonprofit private entities to provide for the establishment of family resource programs and support services that—

“(A) develop, expand, and enhance statewide networks of community-based, prevention-focused centers, programs, or services that provide comprehensive support for families;

“(B) promote the development of parental competencies and capacities in order to increase family stability;

“(C) support the additional needs of families with children with disabilities;

“(D) foster the development of a continuum of preventive services for children and families through State and community-based collaborations and partnerships (both public and private); and

“(E) maximize funding for the financing, planning, community mobilization, collaboration, assessment, information and referral, startup, training and technical assistance, information management, reporting, and evaluation costs for establishing, operating, or expanding a statewide network of community-based, prevention-focused family resource and support services.

“(5) OTHER INNOVATIVE PROGRAMS.—The Secretary may award grants to public or private nonprofit organizations to assist such entities in developing or implementing innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect (such as Parents Anonymous).

“(b) GRANTS FOR ABANDONED INFANT PROGRAMS.—The Secretary may award grants to public and nonprofit private entities to assist such entities in developing or implementing procedures—

“(1) to prevent the abandonment of infants and young children, including the provision of services to members of the nat-

ural family for any condition that increases the probability of abandonment of an infant or young child;

“(2) to identify and address the needs of abandoned infants and young children;

“(3) to assist abandoned infants and young children to reside with their natural families or in foster care, as appropriate;

“(4) to recruit, train, and retain foster families for abandoned infants and young children;

“(5) to carry out residential care programs for abandoned infants and young children who are unable to reside with their families or to be placed in foster care;

“(6) to carry out programs of respite care for families and foster families of infants and young children; and

“(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children.

“(c) EVALUATION.—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

**“SEC. 204. TECHNICAL ASSISTANCE.**

“(a) CHILD ABUSE AND NEGLECT.—

“(1) IN GENERAL.—The Secretary shall provide technical assistance under this title to States to assist such States in planning, improving, developing, and carrying out programs and activities relating to the prevention, assessment identification, and treatment of child abuse and neglect.

“(2) EVALUATION.—Technical assistance provided under paragraph (1) may include an evaluation or identification of—

“(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

“(B) ways to mitigate psychological trauma to the child victim; and

“(C) effective programs carried out by the States under this Act.

“(b) ADOPTION OPPORTUNITIES.—The Secretary shall provide, directly or by grant to or contract with public or private nonprofit agencies or organizations—

“(1) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

“(2) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.

**“SEC. 205. TRAINING RESOURCES.**

“(a) TRAINING PROGRAMS.—The Secretary may award grants to public or private nonprofit organizations—

“(1) for the training of professional and paraprofessional personnel in the fields of medicine, law, education, law enforcement, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse;

“(2) to provide culturally specific instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with disabilities; and

“(3) to improve the recruitment, selection, and training of volunteers serving in private and public nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally.

“(b) DISSEMINATION OF INFORMATION.—The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—

“(1) individuals who are engaged, or who intend to engage, in the prevention, identification, assessment, and treatment of child abuse and neglect; and

“(2) appropriate State and local officials, including prosecutors, to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse.

**“SEC. 206. APPLICATIONS AND AMOUNTS OF GRANTS.**

“(a) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant to a State or other entity under this title unless—

“(1) an application for the grant is submitted to the Secretary;

“(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

“(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

“(b) AMOUNT OF GRANT.—The Secretary shall determine the amount of a grant to be awarded under this title.

**“SEC. 207. PEER REVIEW FOR GRANTS.**

“(a) ESTABLISHMENT OF PEER REVIEW PROCESS.—

“(1) IN GENERAL.—The Secretary shall, in consultation with experts in the field and other Federal agencies, establish a formal, rigorous, and meritorious peer review process for purposes of evaluating and reviewing applications for grants

under this title and determining the relative merits of the projects for which such assistance is requested. The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect.

“(2) REQUIREMENTS FOR MEMBERS.—In establishing the process required by paragraph (1), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Administration for Children and Families. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this title, but may not meet less than once a year. The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.

“(b) REVIEW OF APPLICATIONS FOR ASSISTANCE.—Each peer review panel established under subsection (a)(1) that reviews any application for a grant shall—

“(1) determine and evaluate the merit of each project described in such application;

“(2) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

“(3) make recommendations to the Secretary concerning whether the application for the project shall be approved.

The Secretary shall award grants under this title on the basis of competitive review.

“(c) NOTICE OF APPROVAL.—

“(1) IN GENERAL.—The Secretary shall provide grants under this title from among the projects which the peer review panels established under subsection (a)(1) have determined to have merit.

“(2) REQUIREMENT OF EXPLANATION.—In the instance in which the Secretary approves an application for a program under this title without having approved all applications ranked above such application, the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit.

**“SEC. 208. NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE.**

“(a) IN GENERAL.—The Secretary shall conduct a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected, and such other research as may be necessary.

“(b) REQUIREMENTS.—The study required by subsection (a) shall—

“(1) have a longitudinal component; and

“(2) yield data reliable at the State level for as many States as the Secretary determines is feasible.

“(c) PREFERRED CONTENTS.—In conducting the study required by subsection (a), the Secretary should—



“(1) collect data on the child protection programs of different small States (or different groups of such States) in different years to yield an occasional picture of the child protection programs of such States;

“(2) carefully consider selecting the sample from cases of confirmed abuse or neglect; and

“(3) follow each case for several years while obtaining information on, among other things—

“(A) the type of abuse or neglect involved;

“(B) the frequency of contact with State or local agencies;

“(C) whether the child involved has been separated from the family, and, if so, under what circumstances;

“(D) the number, type, and characteristics of out-of-home placements of the child; and

“(E) the average duration of each placement.

“(d) REPORTS.—

“(1) IN GENERAL.—From time to time, the Secretary shall prepare reports summarizing the results of the study required by subsection (a).

“(2) AVAILABILITY.—The Secretary shall make available to the public any report prepared under paragraph (1), in writing or in the form of an electronic data tape.

“(3) AUTHORITY TO CHARGE FEE.—The Secretary may charge and collect a fee for the furnishing of reports under paragraph (2).

“(4) FUNDING.—The Secretary shall carry out this section using amounts made available under section 425 of the Social Security Act.

### **“TITLE III—GENERAL PROVISIONS**

#### **“SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

“(a) TITLE I.—There are authorized to be appropriated to carry out title I, \$230,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2002.

“(b) TITLE II.—

“(1) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall make available 12 percent of such amount to carry out title II (except for sections 203 and 208).

“(2) GRANTS FOR DEMONSTRATION PROJECTS.—Of the amount made available under paragraph (1) for a fiscal year, the Secretary shall make available not less than 40 percent of such amount to carry out section 203.

“(c) INDIAN TRIBES.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall make available 1 percent of such amount to provide grants and contracts to Indian tribes and Tribal Organizations.

“(d) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.

**“SEC. 302. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.**

“(a) GRANTS TO STATES.—The Secretary, in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

“(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

“(2) the handling of cases of suspected child abuse or neglect related fatalities; and

“(3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.

“(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for assistance under this section, such State shall—

“(1) be an eligible State under section 102;

“(2) establish a task force as provided in subsection (c);

“(3) fulfill the requirements of subsection (d);

“(4) submit annually an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

“(A) make such reports to the Secretary as may reasonably be required; and

“(B) maintain and provide access to records relating to activities under subsection (a); and

“(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a).

“(c) STATE TASK FORCES.—

“(1) GENERAL RULE.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate, and maintain, a State multidisciplinary task force on children’s justice (hereafter in this section referred to as ‘State task force’) composed of professionals with knowledge and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities. The State task force shall include—

“(A) individuals representing the law enforcement community;

“(B) judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);

“(C) child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;

“(D) health and mental health professionals;

“(E) individuals representing child protective service agencies;

“(F) individuals experienced in working with children with disabilities;

“(G) parents; and

“(H) representatives of parents’ groups.

“(2) EXISTING TASK FORCE.—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

“(d) STATE TASK FORCE STUDY.—Before a State receives assistance under this section, and at 3-year intervals thereafter, the State task force shall comprehensively—

“(1) review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal; and

“(2) make policy and training recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

“(e) ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.—

“(1) GENERAL RULE.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

“(A) investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim’s family and which also ensures procedural fairness to the accused;

“(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children; and

“(C) reform of State laws, ordinances, regulations, protocols and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.

“(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

“(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force’s recommendations are not adopted; or

“(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

“(f) FUNDS AVAILABLE.—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.

**“SEC. 303. TRANSITIONAL PROVISION.**

“A State or other entity that has a grant, contract, or cooperative agreement in effect, on the date of enactment of this Act, under the Family Resource and Support Program, the Community-Based Family Resource Program, the Family Support Center Program, the Emergency Child Abuse Prevention Grant Program, or the Temporary Child Care for Children with Disabilities and Crisis Nurseries Programs shall continue to receive funds under such grant, contract, or cooperative agreement, subject to the original terms under which such funds were provided, through the end of the applicable grant, contract, or agreement cycle.

**“SEC. 304. RULE OF CONSTRUCTION.**

“(a) IN GENERAL.—Nothing in this Act, or in part B or E of title IV of the Social Security Act, shall be construed—

“(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian; and

“(2) to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.

“(b) STATE REQUIREMENT.—Notwithstanding subsection (a), a State shall have in place authority under State law to permit the child protective service system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.”.

**SEC. 4752. REAUTHORIZATIONS.**

(a) MISSING CHILDREN’S ASSISTANCE ACT.—Section 408 of the Missing Children’s Assistance Act (42 U.S.C. 5777) is amended—

(1) by striking “To” and inserting “(a) IN GENERAL.—To”

(2) by striking “and 1996” and inserting “1996, and 1997”; and

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

“(b) EVALUATION.—The Administrator shall use not more than 5 percent of the amount appropriated for a fiscal year under subsection (a) to conduct an evaluation of the effectiveness of the programs and activities established and operated under this title.”.

(b) VICTIMS OF CHILD ABUSE ACT OF 1990.—Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004) is amended—

(1) in subsection (a)(2), by striking “and 1996” and inserting “1996, and 1997”; and

(2) in subsection (b)(2), by striking “and 1996” and inserting “1996, and 1997”.

#### **SEC. 4753. REPEALS.**

(a) IN GENERAL.—The following provisions of law are repealed:

(1) Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111 et seq.).

(2) The Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note).

(3) The Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117 et seq.).

(4) Subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.).

(b) CONFORMING AMENDMENTS.—

(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of the Congress and the Director of the Office of Management and Budget, the Secretary of Health and Human Services shall prepare and submit to the Congress a legislative proposal in the form of an implementing bill containing technical and conforming amendments to reflect the repeals made by this section.

(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this subchapter, the Secretary of Health and Human Services shall submit the implementing bill referred to under paragraph (1).

## **Subtitle G—Child Care**

#### **SEC. 4801. SHORT TITLE AND REFERENCES.**

(a) SHORT TITLE.—This subtitle may be cited as the “Child Care and Development Block Grant Amendments of 1996”.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

#### **SEC. 4802. 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. 4803. 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 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. 4804. 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. 4805. 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) by amending 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 organization receiving assistance under this subchapter.”;

(vi) in subparagraph (G), by striking “Provide assurances” and inserting “Certify”; and

(vii) by striking subparagraphs (H), (I), and (J) and inserting the following:

“(H) 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)”;

(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. 4806. LIMITATION ON STATE ALLOTMENTS.**

Section 658F(b)(1) (42 U.S.C. 9858d(b)(1)) is amended by striking “No” and inserting “Except as provided for in section 658O(c)(6), no”.

**SEC. 4807. 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. 4808. REPEAL OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE REQUIREMENT.**

Section 658H (42 U.S.C. 9858f) is repealed.

**SEC. 4809. 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. 4810. PAYMENTS.**

Section 658J(c) (42 U.S.C. 9858h(c)) is amended by striking “expended” and inserting “obligated”.

**SEC. 4811. 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) BIENNIAL 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. 4812. 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. 4813. 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.”;
- (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. 4814. 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. 4815. 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. 4816. EFFECTIVE DATE.**

(a) **IN GENERAL.**—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on October 1, 1996.

(b) **EXCEPTION.**—The amendment made by section 803(a) shall take effect on the date of enactment of this Act.

## **Subtitle H—Miscellaneous**

**SEC. 4901. 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 25 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. 4902. 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. 4903. 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) \$2,520,000,000 for each of the fiscal years 1997 through 2002; and

“(7) \$2,380,000,000 for the fiscal year 2003 and each succeeding fiscal year.”.

**SEC. 4904. 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 “\$2,250”.

(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 1997, each of the dollar amounts in subsections (b)(2) 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 1996’ 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.”

(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 DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 4905. 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 determined without regard to the amounts described in subparagraph (B).

“(B) 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) 50 percent of 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 DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 4906. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.**

(a) **MODIFICATION OF PHASEOUT.**—Subparagraph (B) of section 32(a)(2) of the Internal Revenue Code of 1986, as amended by section 4905 of this Act, is amended to read as follows:

“(B) the sum of—

“(i) the initial phaseout percentage of so much of the modified adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the initial phaseout amount but does not exceed the final phaseout amount, plus

“(ii) the final phaseout percentage of so much of the modified adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the final phaseout amount.”

(b) **PERCENTAGES AND AMOUNTS.**—Subsection (b) of section 32 of such Code is amended to read as follows:

“(b) **PERCENTAGES AND AMOUNTS.**—For purposes of subsection (a)—

“(1) **PERCENTAGES.**—The credit percentage, the initial phaseout percentage, and the final phaseout percentage shall be determined as follows:

“In the case of an eligible individual with:	The credit percentage is:	The initial phaseout percentage is:	The final phaseout percentage is:
1 qualifying child .....	34	15.98	18
2 or more qualifying children	40	21.06	23
No qualifying children .....	7.65	7.65	0

“(2) **AMOUNTS.**—The earned income amount, the initial phaseout amount, and the final phaseout amount shall be determined as follows:

"In the case of an eligible individual with:	The earned income amount is:	The initial phase-out amount is:	The final phase-out amount is:
1 qualifying child .....	\$6,500	\$11,910	\$17,340
2 or more qualifying children	\$9,120	\$11,910	\$21,360
No qualifying children .....	\$4,330	\$5,420	\$0".

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



## TITLE IV—COMMITTEE ON WAYS AND MEANS

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
*Washington, DC, June 13, 1996.*

Hon. JOHN R. KASICH,  
*Chairman, Committee on the Budget,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: On June 12, 1996, the Committee on Ways and Means, pursuant to H.Con.Res. 178, the Concurrent Resolution on the Budget for Fiscal Year 1997, ordered favorably reported, as amended, its budget reconciliation welfare recommendations to the Committee on Budget by a recorded vote of 23–14. Accordingly, I am now transmitting these recommendations to you.

Pursuant to your letter dated June 12, enclosed are the legislative language and explanatory report language.

Please feel free to contact me or Phil Moseley if you have any questions. With best personal regards.

Sincerely,

BILL ARCHER, *Chairman.*

Enclosures.

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### INTRODUCTION

#### DESCRIPTION OF BUDGET RECONCILIATION WELFARE RECOMMENDATIONS AS APPROVED

##### A. BLOCK GRANT FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

The welfare reform proposal approved by the committee would create a single cash welfare block grant for the purposes of: providing assistance to needy families with children; ending dependence on government benefits by promoting job preparation; work and

marriage; preventing and reducing the incidence of out-of-wedlock pregnancies; and encouraging the formation and maintenance of two-parent families. The block grant would replace four current cash welfare and related programs: Aid to Families with Dependent Children (AFDC), AFDC Administration, the Job Opportunities and Basic Skills (JOBS) Program, and the Emergency Assistance Program.

Spending through the block grant would be capped and level-funded at prior levels for these programs. A total of \$16.35 billion each year for fiscal years 1996 through 2001 would be provided to States through the block grant. Each State would receive the highest of Federal payments to the State for AFDC benefits, AFDC Administration, Emergency Assistance, and JOBS for: (1) fiscal years 1992 through 1994, on average; (2) fiscal year 1994; or (3) fiscal year 1995; plus, under certain circumstances, 85 percent of increased fiscal year 1995 spending for emergency assistance.

In addition to the basic block grant, States would be provided with additional funding through a \$1 billion fund that rewards effective performance in preserving 2-parent families and getting parents into the work force in the following ways: through an incentive grant that provides cash rewards of up to 10 percent of the basic State grant amount to States that reduce their nonmarital birthrate while decreasing their abortion rate; through a fund of \$0.8 billion for poor States with high population growth rates; and through a \$2 billion contingency fund that helps States with high levels of economic distress (see below).

States would be required to conduct welfare-to-work programs, and individuals receiving cash benefits through the block grant would be required to work after 2 years or their cash payments would end. According to the Congressional Budget Office, States would be required to have 1.3 million cash welfare recipients in work programs by 2002.

States would be required to ensure that cash welfare recipients are eligible for Medicaid coverage. In addition, States would be required to provide transitional Medicaid benefits for 1 year for families that leave welfare due to increased earnings or child support as long as their income remains below the poverty level; however, earned income credit (EIC) benefits would be disregarded from a family's income in determining eligibility for transitional Medicaid benefits.

The individual entitlement to cash welfare payments (currently provided under the AFDC program) would be ended. Block grant funds would guarantee payments to States for 6 years, but States would be penalized by losing Federal funds if they fail to meet requirements set forth in the legislation, such as providing data to the Federal Government and ensuring that funds are spent on children and families. States that misuse block grant funds would have to repay the amount misspent, plus pay a penalty using State funds.

States would be prohibited from using block grant funds to provide cash welfare to:

- (1) Families with no minor children;
- (2) Families that have an additional child while on welfare (States can "opt-out" of this prohibition);

- (3) Parents that do not cooperate on child support;
- (4) Families that have not assigned support rights to the State;
- (5) Mothers under 18 who have a child out-of-wedlock and fail to live with an adult and stay in school;
- (6) Provide medical services (except for family planning services)
- (7) Parents not working after 2 years of receiving cash welfare;
- (8) Families receiving cash welfare for more than 5 years with hardship exceptions for up to 20 percent of families on welfare;
- (9) Individuals who fraudulently attempt to obtain benefits in two or more States; and
- (10) Fugitive felons.

Subject to State determinations, individuals in each of the above categories would generally continue to be eligible for certain other means-tested benefit programs.

States would be given flexibility in developing anti-poverty programs, and would be able to transfer up to 30 percent of block grant funds to child care, child welfare, and social service block grants. States could reserve block grant funds to provide for increased need for cash welfare assistance during a recession or other emergencies. New Federal "rainy day" loan and grant funds would provide a total of \$3.7 billion in added funding, from which States could draw in times of financial need.

States would be audited and required to report a broad range of data so the Federal Government can assess the success of block grant programs, determine that needy children and families are being protected, and ensure that taxpayers' interests are being served.

#### B. SUPPLEMENTAL SECURITY INCOME (SSI)

Prisoners would be made ineligible for Federal disability benefits by reforms that provide new financial incentives for local institutions to report inmate lists for matching with SSI and Old-Aged, Survivors, and Disability Insurance beneficiary rolls.

In order to better target benefits for children who are disabled and also to combat increased abuse of the SSI program, the eligibility of children for SSI benefits would change. Children currently found to be disabled due to a functional assessment and who do not meet a criterion of physical or mental impairment which results in marked and severe functional limitations would no longer be eligible for cash SSI payments. Children who exhibit so-called "age-inappropriate" behavior, which the committee and other expert groups have found to be particularly prone to abuse, would no longer qualify for benefits. In applying the new test of childhood disability, the Commissioner of Social Security would have to take into account the combined effects of all physical or mental impairments to be taken into account when determining whether a child is disabled. Regulations would have to be provided for the evaluation of children who cannot be tested because of their young age.

At least once every 3 years, States would have to conduct continuing disability reviews for children eligible for SSI benefits, ex-

cept those whose condition is permanent and cannot improve. Reviews would also be conducted for children who turn 18 to determine continuing eligibility under the adult criteria.

#### C. CHILD SUPPORT ENFORCEMENT

The proposal is designed to ensure that children receive the support they are due on time and in full by achieving three major goals: establishing uniform State tracking procedures; taking strong measures to establish paternity and funding; and ensuring tough child support enforcement.

To establish uniform State tracking of delinquent parents, and especially those fleeing across States lines, a common State registry for recording child support orders would be created. States would be given flexibility in distributing collections, and centralized collection and disbursement of payments would be encouraged. The proposal would express the sense of Congress that States may choose the method of compliance which best meets the needs of parents, employers, and children in establishing centralized collection and disbursement units. States would be required to create State Directories of New Hires, with information used to establish paternity, modify and enforce support orders, and reduce fraud involving Federal benefit programs. State hire information also would be transmitted to the Federal Parent Locator Service for data matches with other States.

States would be required to adopt the Uniform Interstate Family Support Act to achieve uniformity in interstate cases, and also to recognize other States' uncontested child support orders and to create procedures to quickly establish paternity and enforce orders.

In the absence of paternity establishment, taxpayers are left to pay literally billions of dollars in welfare expenses that are the obligation of delinquent parents. To improve paternity establishment and funding, States would be required to have laws or procedures that provide for medical verification in cases of contested paternity, would strengthen cooperation requirements for paternity establishment for public assistance applicants and recipients, and would simplify voluntary paternity establishment. Signed acknowledgements of paternity would be made final judgments after 60 days, voluntary establishment of paternity would be encouraged through outreach programs, and the Federal matching payments would be funded at a rate of 66 percent. States would be provided with additional funding to improve their automated data management systems.

The proposal would provide needed enforcement tools in key areas and work to reduce future delinquency on the part of parents by: requiring Federal, State and local governments, and Federal and military employees and retirees to comply with the same child support laws that apply to the private sector. The proposal would make grants to States for access and visitation programs to encourage participation in the life of the child by the noncustodial parent.

#### D. NONCITIZENS

After the date of enactment, most noncitizens would no longer be eligible for SSI and food stamp benefits and, at State option, cash welfare, social services, and Medicaid. Most noncitizens arriving

after the date of enactment would be ineligible for most Federal welfare benefits during their first 5 years in the United States.

Noncitizens would remain eligible for the earned income tax credit (if they are authorized to work), emergency medical services and immunizations, foster care and adoption benefits, and education benefits, among other benefits.

Exceptions would be made for refugees during their first 5 years in the United States, veterans, and persons who have worked in the United States for 10 or more years, among others. Noncitizens currently receiving SSI and food stamp benefits would remain eligible either until a review determines that they do not qualify under the new standards or 1 year after enactment, whichever occurs first.

Sponsorship agreements, by which family members and others agree to help noncitizens who would otherwise qualify for welfare, would be made legally binding and would apply until the immigrant becomes a citizen. The agreements are not now legally binding and last for only 3 or 5 years. A sponsor's income would be "deemed" or added to the noncitizen's income in determining the noncitizen's eligibility for most Federal welfare benefits (with certain individuals and programs excepted as above). Noncitizens illegally in the United States would be barred from almost all Federal welfare benefits; illegals would be similarly barred from State and local welfare benefits, but States could "optout" of this prohibition with regard to specific programs. States would be given the option to follow the Federal classification of U.S. citizens and legal noncitizens in determining eligibility for any State, local or municipal means-tested public assistance program.

#### E. PUBLIC HOUSING

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.

#### F. CHILD PROTECTION

The proposal would retain the open-ended entitlement funding for foster care and adoption assistance maintenance payments, training, and administration. The proposal would clarify that Medicaid coverage is guaranteed for children in foster care or children covered by adoption assistance agreements. The provision also would preserve the existing capped entitlement for Independent Living services. States would be provided with 1 year of enhanced funding to complete implementation of their Statewide Automated Child Welfare Information Systems.

While retaining both the unlimited entitlement money for foster care and adoption as well as the child protection standards in current law, the provision would cap other programs and consolidate most of them into a Child Protection Block Grant that States can use to protect abused and neglected children. The purpose of this block grant would be to help States identify and assist families at risk of abusing or neglecting their children, to support children who must be removed from or who cannot live with their families, to support children in foster care or placed for adoption, and to pro-



vide for continuing evaluation and improvement of child protection laws, and to provide for continuing evaluation and improvement of child protection laws, regulations and services. By consolidating 11 existing child welfare programs into block grants, the provision would streamline 4 different State plans and applications into a single requirement.

The Child Protection Block Grant would contain two streams of funding. The first would be a stream of guaranteed (entitlement) funding that rises from \$240 million in 1997 to \$286 million in 2002. The second would be a discretionary stream with an annual authorization level of \$325 million.

#### G. CHILD CARE

This provision would consolidate seven child care programs into a single program to assist low-income working parents in paying for child care. Consolidation of programs would eliminate conflicting income requirements, time limits, and work requirements between and among programs, and facilitate efficient use of Federal money by both States and parents.

While the entitlement to child care would end, this block grant would provide Federal funds that are allowed to follow the parent whether the parent is receiving public cash assistance while participating in a work-related activity or education program, has recently left public assistance, or is otherwise employed but meets the State's criteria for "very low income." This approach would be intended to eliminate the gaps, disruptions, and excessive paperwork caused by the fact that current law establishes separate programs for each of these groups of parents.

The block grant contains provisions which would promote parental choice and would give parents authority to decide where to send their child for day care services, and would include the option of receiving assistance through vouchers or cash.

In addition to establishing a single child care block grant, the provision would add mandatory funds to the existing Child Care and Development Block Grant. Total child care funds under this provision would equal \$22 billion over 7 years, \$15 billion in mandatory funds and \$7 billion in discretionary funds. States would be able to transfer up to 30 percent of their cash welfare block grant funds into the Child Care Block Grant, but would not be able to transfer child care funds to other purposes.

#### H. MISCELLANEOUS

The proposal would stipulate that funds from certain Federal block grants to the States are to be expended in accordance with the laws and procedures applicable to the expenditure of the State's own resources. This provision would apply 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 control over Federal block grant funds, the State legislatures now would share control through the State appropriations process; however, States would have to continue to spend Federal funds in accordance with Federal law.

States would not be prohibited by the Federal Government from sanctioning welfare recipients who test positive for the use of controlled substances.

For fiscal years 1997 through 2002, the Social Services Block Grant would be reduced by 10 percent each year.

In addition to two EIC changes made under Title IV, the proposal would require taxpayers to include interest, dividends and net rent and royalty income in determining whether they are disqualified from EIC benefits; expand the definition of income used in phasing out the credit; and provide for swifter phaseout of the EIC for families with 1 child with earnings above \$17,340 and for families with 2 or more children with earnings above \$21,360. Each change is designed to target EIC benefits to lower-income workers, especially those leaving welfare for work.

#### SUBTITLE A—BLOCK GRANT 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*

Upon enactment (October 1, 1996).

## 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 re-

quirements 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 2-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, 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 the parent or caretaker has received assistance for 24 months (whether or not consecutive) or earlier;
3. ensure that parents and caretakers engage in work activities as described below;
4. take such reasonable steps as 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 (including providing education and counseling (including abstinence-based programs) and pre-pregnancy health services) to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies;
6. treat families moving into the State from another State;
7. treat noncitizens of the United States; and
8. provide opportunities for adversely affected recipients to be heard in a State administrative or appeal process.

*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.

*Effective date*

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

## 5. ELIGIBLE STATES—FAIR AND EQUITABLE TREATMENT

*Present law*

Regulations require that States determine need and amount of eligibility on an objective and equitable basis.

*Explanation of provision*

The State plan must set forth objective criteria for the delivery of benefits, for the determination of eligibility, and for fair and equitable treatment.

*Reason for change*

The committee, while granting new flexibility to States to operate block grant programs, is determined that the delivery of benefits for needy families is provided for 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).

## 6. 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:

1. that the State will operate a child support enforcement program;
2. that the State will operate a child protection program;
3. specifying which State agency or agencies will administer and supervise the State plan, and assurances that local governments and private sector organizations have been consulted

and have had an opportunity to submit comments on the plan;  
and

4. that the State will provide Indians with equitable access to assistance.

*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 child protection 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).

7. 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).

8. 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 6 fiscal years (1996 through 2001)

in the 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, and JOBS during (1) fiscal years 1992 through 1994, on average; (2) fiscal year 1994, or (3) fiscal year 1995 plus, under certain circumstances, 85 percent of increased fiscal year 1995 spending for emergency assistance.

If a State fails to make qualified State expenditures for eligible families under all State programs equal to at least 75 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 6 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 the continuation of only 1995 funding levels. For example, by allowing States to receive the average funding granted in 1992 through 1994 or in 1994, States that have already reduced welfare caseloads will have sufficient funding to continue and expand reforms.

States are required to maintain at least 75 percent of recent State spending on welfare programs in order to receive full Federal block grant funds. States that are successful in moving families off welfare and into work are eligible to further reduce State spending, to as low as 67 percent of prior levels.

#### *Effective date*

States may begin their block grant program as late as July 1, 1997. States may begin prior to that time, and would receive block grant payments in proportion to the number of days remaining in the fiscal year.

#### 9. 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 5 or 10 percent if the State "illegitimacy ratio" is 1 or 2 percentage points, respectively, lower in that year than its 1995 illegitimacy ratio. Only States in which the rate of abortion falls below the 1995 level are eligible for these additional grants.

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.

10. GRANTS TO STATES—SUPPLEMENTAL GRANT FOR POPULATION INCREASES 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.

*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 to assist in making cash welfare payments. For fiscal year 1997 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 1998 through 2000, 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 national average and State population growth exceeds the average for all States. States must qualify during fiscal year 1997 in order to qualify during later years. Certain States (i.e. those in which Federal welfare spending per poor person is less than 35 percent of the 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 1997 and 2000. 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 such States would generally receive less in per capita Federal funds due to the direct connection between the States' block grant amount and prior welfare benefit levels and reciprocity. 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 1997.

11. 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 5 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 5 fiscal years, 1999 through 2003, and average annual performance bonuses are to equal \$200 million.

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.

## 12. 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 5 fiscal years (1997 through 2001) 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 one-twelfth 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 3-month period) and rising relative to previous years (at least 10 percent above the comparable level in either or both of 2 preceding years). States also are eligible to receive payments if food stamp participation in the State in the most recent 3-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 this proposal to the Food Stamp Program (including optional food stamp block grant provisions) 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 the transition to recovery for States in need, States that have been receiving contingency fund payments will continue to receive payments for 1 month after they no longer meet the criteria described above.

*Reason for change*

Some observers have been concerned that, given the bill’s fixed funding level, States may have trouble paying benefits during recessions and other financial emergencies. Thus the committee proposal provides up to \$2 billion in new funding for States that experience economic downturns, and includes flexible “triggers” allowing such States to access this fund whenever unemployment or food stamp reciprocity rise significantly.

*Effective date*

Contingency funds are available to States beginning in fiscal year 1997.

## 13. 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. This part shall not be interpreted to prohibit a State from making payments to a third party for goods and services provided by the party to or for an individual or family eligible for assistance under the State program funded under this part, from the assistance that would otherwise be provided to the individual or family under the program.

*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. However, given the fact that Federal and State policymakers sometimes disagree on welfare policy, the policy followed by the committee proposal is to place some restrictions on how States use Federal dollars but clarify 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).

## 14. 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).

15. 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 1 year. The U.S. Supreme Court has invalidated some State laws that withheld aid from persons who had not resided there for at least 1 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).

16. 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 new child protection block grant, the social services block grant, and 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 protection, child care, and social services block grants.

*Effective date*

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

17. 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, instead of a program offering families a lifetime of guaranteed benefits and dependence on taxpayer support.

*Effective date*

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

18. 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).

19. 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).

20. 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 3 months in advance of any quarterly payment that will be reduced to reflect payments made to Indian tribes in the State. 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).

21. 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 mispending block grant funds as determined by an audit are ineligible for loans. Loans are to mature in 3 years, at the latest, and the maximum amount loaned to a State 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 remain-

ing 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 block grant funds, and reserve Federal funds 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).

22. MANDATORY WORK REQUIREMENTS—PARTICIPATION RATE  
REQUIREMENTS

*Present law*

The following minimum percentage of nonexempt AFDC families must participate in JOBS:

	<i>Minimum percentage</i>
Fiscal year:	
1995 .....	20
1996 and thereafter (no requirement) .....	0

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

	<i>Minimum percentage</i>
Fiscal year:	
1995 .....	50
1996 .....	60
1997 .....	75
1998 (last year) .....	75
1999 and thereafter (no requirement) .....	0

*Explanation of provision*

The following minimum percentages of all families receiving assistance funded by the family assistance grant (except those with a child under 1, if exempted by the State) must participate in work activities:

	<i>Minimum percentage</i>
Fiscal year:	
1996 .....	15
1997 .....	20
1998 .....	25
1999 .....	30
2000 .....	35
2001 .....	40
2002 or thereafter .....	50

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

#### *Reason for change*

In addition to requirements that individuals work after receiving at most 2 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).

#### 23. 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 (nonexempt 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 2 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 1 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 towards the State work participation requirement.

States have the option of not requiring parents of children under age 1 to engage in work and may disregard these parents in determining work participation rates.

*Reason for change*

In contrast to the current system characterized by broad expectations from work requirements, State participation rates, which increase annually as described above, are calculated based on 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. Other current 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 the approximately 20 percent of welfare caseloads that currently leave welfare for work (most in the absence of dedicated State programs designed to move families into work).

*Effective date*

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

24. 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).

	<i>Minimum average hours weekly</i>
Fiscal year:	
1996 .....	20
1997 .....	20
1998 .....	20
1999 or thereafter .....	25

There are five exceptions to the above table: (1) an adult in a two-parent family is considered engaged in work if the adult works at least 35 hours per week, with not fewer than 30 hours attributable to the work activities cited above for single parents; (2) an individual in job search may be counted as engaged in work for up to 12 weeks only; (3) a State may count a single parent with a child under age 6 as engaged in work for a month if the parent works an average of 20 hours weekly in 1999 and later; (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; and (5) teen parents are considered to be engaged in work if they attend secondary school or participate in work-related education.

*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' their ability to count certain activities (such as job search) for extended periods.

*Effective date*

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

25. 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).

26. 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 6 for refusal to work if the parent proves that there is a demonstrated inability to obtain needed child care for specified reasons.

*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).

27. 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 nonovertime 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*

No adult in a Title IV-A work activity shall be employed or assigned when another person is on layoff from the same or a substantially equivalent job, or when the employer has terminated the employment of a regular worker or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy thus created with a subsidized worker. This provision 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).

28. 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 such families in work in operating their revised welfare programs.

*Effective date*

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

29. MANDATORY WORK REQUIREMENTS—SENSE OF THE CONGRESS THAT STATES SHOULD IMPOSE CERTAIN REQUIREMENTS ON NON-CUSTODIAL, NONSUPPORTING MINOR PARENTS

*Present law*

No provision.

*Explanation of provision*

It is the sense of the Congress that States should require non-custodial, 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.

*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).

30. 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).

31. 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. Block grant funds can be used to provide noncash (voucher) assistance for particular goods and services suitable for the care of the child.

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.

*Reason for change*

The committee believes the Nation has an overriding interest in reducing illegitimacy 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).

32. 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*

The State must stop paying the parent's share of the family welfare benefit if the parent fails to cooperate in establishing, modifying or enforcing a child support order; the State may deny benefits to the entire family for the parent's failure to cooperate.

*Reason for change*

The committee believes it is irresponsible for Federal benefits to be available to parents (and, at State option, families) that do not cooperate in attempting to obtain proper child support. In thousands of cases, if child support were collected as ordered, families would not have to depend on taxpayer-funded welfare benefits.

*Effective date*

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

33. 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.

*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).

34. 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 illegitimacy, 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).

35. 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).

36. 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 has received block grant aid 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 TANF 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 5 years. The committee notes that, of families now on welfare, almost two-thirds will be dependent for a total of 8 years or more, establishing that long-term dependency is a major problem of the current system. States are permitted to make exceptions for hardship, but it is the clear intent of the committee 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).



37. 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 family assistance grant aid 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).

38. 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).

39. 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 5 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).

40. PROHIBITIONS; REQUIREMENTS—MEDICAL ASSISTANCE REQUIRED TO BE PROVIDED FOR 1 YEAR FOR FAMILIES BECOMING INELIGIBLE FOR ASSISTANCE DUE TO INCREASED EARNINGS OR COLLECTION OF CHILD SUPPORT

*Present law*

States 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, 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 families that become ineligible for block grant assistance due to increased earnings or child support collections and whose income falls below the poverty level. In order to qualify for this extended medical coverage, such

families must have received block grant assistance in at least 3 of the 6 months prior to the month in which they became ineligible. For purposes of determining family income to compare with the Federal poverty line, States have the authority to reach their own definition of income except that income from the Earned Income Tax Credit must be entirely disregarded.

*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 committee wants to ensure that for at least 1 year after leaving the welfare rolls the health care for both parents and children will be guaranteed. Thus, the committee provision mandates that States 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. To ensure that parents with modest incomes remain eligible for health coverage, States are barred from including income from the Earned Income Tax Credit in the definition of income.

*Effective date*

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

41. PROHIBITIONS; REQUIREMENTS—MEDICAID

*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 must continue Medicaid for specified periods for certain families who lose AFDC benefits. If the family loses AFDC benefits because of increased earnings or hours of employment, Medicaid coverage must be extended for 12 months. (During the second 6 months a premium may be imposed, the scope of benefits may be limited, or alternate delivery systems may be used.) If the family loses AFDC because of increased child or spousal support, coverage must be extended for 4 months. States are also required to furnish Medicaid to certain two-parent families whose principal earner is unemployed and who are not receiving cash assistance because the State has set a time limit on their AFDC coverage.

*Explanation of provision*

States must provide medical assistance to all recipients of the Temporary Assistance for Needy Families Block Grant (TANF), to the extent that the health care costs of the recipients are not covered by other health insurance.

*Reason for change*

The provision continues the current law requirement that States provide Medicaid coverage (or its successor) for all families receiving cash welfare benefits funded under the block grant. However, if families on welfare are eligible for other health insurance coverage, that coverage—not Medicaid—would be the primary insurance.

*Effective date*

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

42. PROHIBITIONS; REQUIREMENTS—STATE DISREGARD OF INCOME  
SECURITY PAYMENTS

*Present law*

AFDC benefits may not be paid to a recipient of old-age assistance (predecessor to Supplemental Security Income (SSI) and now available only in Puerto Rico, Guam, and the U.S. Virgin Islands), SSI, or AFDC foster care payments.

*Explanation of provision*

This provision allows States to disregard income security payments such as old-age assistance, payments for foster care, and Supplemental Security Income, in determining the amount of assistance to be provided to a family.

*Reason for change*

The committee proposal allows States flexibility in setting welfare benefits by allowing States to disregard other government income security payments.

*Effective date*

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

43. 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*

Note.—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 47 and 48, 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 will be reduced by an additional 5 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, plus may face the added penalty of losing up to 5 percent of the State block grant amount if the misspending is judged to be intentional.

*Effective date*

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

## 44. 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 1 month after the end of a fiscal quarter, the Secretary shall reduce by 4 percent the block grant amount otherwise payable to the State for the next fiscal year. However, the penalty shall be rescinded 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.

## 45. 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 54, "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 5 percent, with the percentage cut based on the "degree of noncompliance."

*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 the additional grants and the ability to further reduce 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.

46. 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 2 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.

47. 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—loss of AFDC matching funds—shall 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 5 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 such penalties against individuals are penalized through the loss of Federal block grant funds.

*Effective date*

July 1, 1997.

48. 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.

49. 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 75 percent of its "historic level" (generally fiscal year 1994 expenditures for AFDC, JOBS, Emergency Assistance, AFDC-related child care and "at-risk" child care) of State spending on specified programs, the Secretary shall reduce the following year's family assistance grant (that is, in fiscal years 1998 through 2002) by the difference between the 75 percent requirement and what the State actually spent.

Qualified State expenditures that count toward the 75 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 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 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. Expenditures from any State or local program are excluded

from transfers except those expenditures that exceed the amount expended in 1996 or the State is entitled to the expenditure under a former provision.

The Secretary is to reduce the 75 percent maintenance of effort spending requirement by up to 8 percentage points (i.e., to no lower than 67 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 75 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 75 percent maintenance of effort level required would lose the equivalent in Federal block grant funds.

*Effective date*

July 1, 1997.

50. 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 non-compliance, by 2–3 percent for second consecutive finding, and by 3–5 percent for third or subsequent finding. (See “corrective compliance” item 54.) 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 noncompliance, the reduction will be between 1 and 2 percent; for the second con-



secutive finding, between 2 and 3 percent; for the third or subsequent findings, between 3 and 5 percent. Noncompliance 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 5 percent of the block grant amount.

*Effective date*

July 1, 1997.

51. 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.

52. FAILURE TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT  
REDUCTIONS

*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.

53. PENALTIES—FAILURE TO PROVIDE MEDICAL ASSISTANCE TO FAMILIES BECOMING INELIGIBLE FOR ASSISTANCE UNDER THIS PART DUE TO INCREASED EARNINGS FROM EMPLOYMENT OR COLLECTION OF CHILD SUPPORT

*Present law*

If the Secretary finds that a State fails to comply substantially with any required provision of its Medicaid plan (including transitional benefits for former AFDC families), she shall withhold all payments to the State (or limit payments to categories not affected by the noncompliance).

*Explanation of provision*

If the Secretary determines that a State does not comply with the requirement to provide medical assistance for 1 year for certain families that become ineligible for block grant assistance due to increased earnings or the collection of child support, the Secretary must reduce the State's block grant by up to 5 percent (depending on the severity of the violation).

*Reason for change*

This provision is designed to ensure compliance with the requirement that States provide transitional Medicaid benefits for certain families.

*Effective date*

July 1, 1997.

54. 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 75 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.

## 55. 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.

## 56. PENALTIES—LIMITATION ON AMOUNT OF PENALTY

*Present law*

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

*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 immediate 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.

## 57. 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 5 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.

## 58. 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.

59. 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 report submitted by the State must also include:

1. a statement of the percentage of the funds paid to the State that is used to cover administrative costs or overhead;
2. a statement of the total amount expended by the State during the fiscal year 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 fiscal year;
4. the total amount spent by the State for providing transitional services to a family that no longer receives assistance because of employment, along with a description of those services; and
5. information necessary for the Secretary to verify that those who have become ineligible for assistance because of work have not received cash assistance during the fiscal year.

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

*Reason for change*

See 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.

60. 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 6 months after the end of fiscal year 1997, and each fiscal year thereafter.

61. 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 2000, the Secretary shall pay tribal family assistance grants to eligible Indian tribes (and shall reduce the family assistance grant for the State(s) in which the tribe's service area lies 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 6 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.

62. 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 3-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 meet the above requirements. 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, 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.

63. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES—RESEARCH

*Present law*

Section 1110 of the Social Security Act authorizes \$5 million annually for cooperative research or demonstration projects, such as those relating to the prevention and reduction of dependency.



*Explanation of provision*

The Secretary shall conduct research on the effects, benefits, and costs of operating State programs of Temporary Assistance for Needy Families, 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).

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

*Effective date*

Upon enactment (October 1, 1996).

65. 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.

66. 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.

67. 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.

68. 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 8 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.

69. 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 3 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 3 years after the date of enactment, and annually thereafter.

## 70. 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. 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 6 fiscal years, 1996 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.

## 71. 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 7 years (1996–2002) 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: illegitimacy, welfare dependency, the causes of poverty, and the reasons families return to welfare.

*Effective date*

October 1, 1996.

72. 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. Some 38 States have received waivers from the Clinton administration for welfare reforms, as of late May 1996.

*Explanation of provision*

This section provides that terms of AFDC waivers in effect, or approved, as of September 30, 1995, will continue until their expiration, except that beginning with fiscal year 1996 a State operating under a waiver shall 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).

73. 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.

74. 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*

October 1, 1996.

75. 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.

76. 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 sec-

ondary 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.

77. 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.

78. 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.

79. 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 population growth funds and contingency funds), 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.

80. 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.

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 combines the individual programs 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 child protection. Maximum potential fiscal year payments (including both the capped mandatory payments listed below and the authorization of discretionary grants) are as follows: Puerto Rico—\$113.5 million; Guam—\$5.2 million; U.S. Virgin Islands—\$4.0 million; and American Samoa—\$1.3 million.

To receive mandatory 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, \$105.5 million;



Guam, \$4.9 million; Virgin Islands, \$3.7 million; and American Samoa, \$1.1 million.

*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.

81. 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.

*Reason for change*

States currently must maintain a high level of welfare benefits or suffer the loss of Federal medical assistance funding that would amount in many cases to millions of dollars in lost Federal funds. As a result, this requirement forces many States to maintain benefit levels that may be at odds with the overall goal of the committee proposal of reforming welfare to discourage welfare dependency and encourage family self-reliance. 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).

82. 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).

83. CENSUS DATA ON GRANDPARENTS AS PRIMARY CAREGIVERS FOR  
THEIR GRANDCHILDREN

(This provision is not under jurisdiction of the Committee on Ways and Means 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.

## 84. 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 6 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 6 months of the date of enactment (October 1, 1996).

## 85. 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 1 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).

## 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 Ways and Means but is included here for sake of 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 1 year after the date of enactment.

90. DISCLOSURE OF RECEIPT OF FEDERAL FUNDS

(This provision is not under jurisdiction of the Committee on Ways and Means 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 nonprofit, tax-exempt 501(c) organizations, must be publicly disclosed. When a 501(c) organization that accepts Federal funds under the Work Opportunity Act makes any communication intended to promote public support or opposition to any governmental 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."

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; 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*

Technical changes.

*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 technical and conforming amendments.

*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*

No provision.

*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 6 months after the State plan is received by the Secretary, whichever is later.

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 2 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).

SUBTITLE B—SUPPLEMENTAL SECURITY INCOME

1. REFERENCE TO THE 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.

## CHAPTER 1—ELIGIBILITY RESTRICTIONS

## 2. DENIAL OF SSI BENEFITS 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 persons who knowingly and willfully make or cause to be made any false statements or misrepresentations in applying for or continuing to receive Supplemental Security Income (SSI) payments shall be fined under title 18, U.S. Code, imprisoned for not more than 5 years, or both.

*Explanation of provision*

Any person convicted in Federal court or State court of having fraudulently misrepresented residence in order to obtain benefits or services from two 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 SSI program. This provision imposes a stricter penalty than under current law, ending eligibility for 10 years for individuals who attempt to receive 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 concerning SSI applicants or recipients to purposes directly connected with the administration of the SSI program or other federally-funded programs. However, such safeguards must not prevent the State or local agency from furnishing a law enforcement officer, upon his request, with the address of any recipient if the officer (1) provides the agency with the recipient's name and Social Security account number, and (2) demonstrates that the recipient is a fugitive felon, that the apprehension of the person is within the officer's official duties, and the request is made in the proper exercise of those duties.

*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, Social Security account number, and photograph (if applicable) 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 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 through Federal benefits. Measures to improve cooperation between States, SSA, and law enforcement officials are intended to assist in locating and apprehending these individuals.

*Effective Date*

Date of enactment.

4. TREATMENT OF PRISONERS

*(1) Implementation of Prohibition Against Payment of Benefits to Prisoners*

*Present law*

Current law prohibits prisoners from receiving benefits while incarcerated. Federal, State, or county or local prisons are required to make available, upon written request, the name and Social Security account number of any individual who is confined in a penal institution or correctional facility and convicted of any crime punishable by imprisonment of more than 1 year.

*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, Social Security account numbers, dates of birth, and other identifying information. The Commissioner shall pay to the institution for each eligible individual who becomes ineligible 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 new financial incentives for State and local institutions to report information on inmates to the Social Security Administration so SSI and Social Security retirement and disability benefits fraudulently received by prisoners can be stopped.

The Privacy Act's procedural requirements to computer matching agreements between the Commissioner and the institutions im-

poses an excessively costly administrative burden that could hamper the administration of the prisoner payment provisions. Therefore, the Computer Matching and Privacy Protection Act shall not apply to the information exchanged under these provisions.

*Effective date*

Date of enactment.

*(2) 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.

*(3) Elimination of OASDI Requirement that Confinement Stem from Crimes Punishable by Imprisonment for More Than 1 Year*

*Present law*

Bars Social Security benefits from prisoners convicted of any crime punishable by imprisonment of more than a year, not just felonies.

*Explanation of provision*

Replaces “an offense punishable by imprisonment for more than 1 year” with “a criminal offense” and deletes other language. Effective for benefits payable more than 180 days after the date of enactment. The provision bars Social Security benefits from persons confined throughout a month to a penal institution or another institution if the person is found guilty but insane.

*Reason for change*

This change was a result of preliminary audit findings by SSA’s Office of the Inspector General, which found that the language in existing law creates administrative barriers to the effective administration of SSA’s suspension activities by requiring the expenditure of scarce resources to determine the maximum sentence for inmates nationwide. This data is not obtainable from the correction agencies and must be obtained from the courts.

*Effective date*

Effective for benefits payable more than 180 days after enactment.

(4) *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 institutions enter into contracts with the Commissioner 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 Social Security Administration must find better ways to interface directly with courts and State and local prisons and other institutions so that prisoners do not receive federal benefits.

*Effective date*

Date of enactment.

## 5. EFFECTIVE DATE OF APPLICATION FOR BENEFITS

*Present law*

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

*Reason for change*

The committee proposal ends the 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 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.

*Effective date*

Date of enactment.

## CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

## 6. DEFINITION AND ELIGIBILITY RULES

*(1) Definition of Childhood Disability**Present law*

There is no definition of childhood disability in the statute. Under current disability evaluation procedures, to be found disabled a child must have a medically determinable physical or mental impairment that substantially reduces the ability to independently and effectively engage in age-appropriate activities. This impairment 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. The Commissioner shall ensure that the combined effects of all physical or mental impairments of an individual are taken into account in determining whether an individual is disabled. In addition, the Commissioner shall ensure that the regulations prescribed by these provisions provide for the evaluation of children who cannot be tested because of their young age.

*Reason for change*

The committee intends that only needy children with severe disabilities be eligible for SSI and that the Listings and other disability determination regulations as modified by these provisions properly reflect the severity of disability contemplated by the statutory definition. In those areas of the Listings that involve domains of functioning, the committee expects no less than marked limitations in no fewer than two domains or extreme limitations in at least one domain 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 common sense meaning.

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 Listings. Nonetheless, the committee does not intend to limit the use of func-

tional 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.

*(2) Changes to 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 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 examines whether the child can engage in age-appropriate activities effectively. If the child cannot, the child is determined disabled.

*Explanation of provision*

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

*Reason for change*

The committee received extensive testimony about the inducement that cash payments present to some poor families with children who are not severely disabled. Particularly troubling are reports of "coaching" on the part of parents and generally broadened eligibility criteria that have resulted in a program characterized by explosive growth in enrollment and mounting costs to taxpayers. As a result of these and similar problems, the number of children on SSI grew from 300,000 in 1989 to 914,000 in 1995, while children's benefit spending grew from \$1.2 billion to \$4.8 billion. The SSI changes in the committee proposal are designed to maintain adequate disability benefits for families in need, while protecting against continued uncontrolled growth in program cost and enrollment.

*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.

*(3) 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.

*(4) Effective Dates*

*Present law*

No provision.

*Explanation of provision*

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

No later than 1 year after the date of enactment, the Commissioner shall redetermine the eligibility of any child receiving benefits on the date of enactment who would lose eligibility under these provisions.

Benefits of current recipients will continue until their redetermination. Should a child be found ineligible, their benefits will end following redetermination.

No later than January 1, 1997, the Commissioner must notify individuals whose eligibility for SSI benefits will terminate.

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

The Commissioner shall submit 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 their immediate effective date for all pending and new applications. The committee allows 1 year for the Commissioner to redetermine the eligibility of those currently receiving benefits whose eligibility may end due to these provisions. Recognizing the impact these redetermina-

tions will have on SSA resources, the committee proposal provides an additional \$300 million for this purpose over the next 3 years.

Individuals currently receiving benefits must be notified of possible changes in eligibility no later than January 1, 1997, in an effort to provide SSA additional time to execute the notification process. In addition, due to the importance of these provisions, the committee is requesting review of implementing regulations in advance and a progress report within 6 months.

*Effective date*

Date of enactment.

7. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY  
REVIEWS

*Present law*

Federal law requires that SSI recipients be subject to a continuing disability review (CDR) at least once every 3 years, except for recipients whose impairments are judged to be permanent. The Commissioner is required to conduct periodic CDRs of at least 100,000 disabled SSI recipients per year for a period of 3 years (i.e., fiscal years 1996–1998) and report to Congress on CDRs for disabled SSI recipients no later than October 1, 1998.

Current law specifies that the Commissioner must reevaluate 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, on CDRs for disabled children.

*Explanation of provision*

(1) *Continuing Disability Reviews Relating to Certain Children*

In addition to the provisions of current law, at least once every 3 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 review the parent or guardian must present evidence demonstrating that the recipient is and has been receiving appropriate treatment for his/her disability.

(2) *Disability Eligibility Redeterminations Required for SSI  
Recipients Who Attain 18 Years of Age*

The eligibility for all children qualifying for SSI benefits must be redetermined using the adult criteria within 1 year after turning 18 years of age. 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.

*(3) 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 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 protect taxpayers against abuse and also to encourage children whose condition improves to become free of government dependence, the Commissioner is required to review the eligibility of certain children already receiving SSI benefits to continue receiving benefits. Experience has shown that many children with disabilities do improve and that disability reviews can be cost beneficial.

*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

*(1) Disposal of Resources for Less Than Fair Market Value*

*Present law*

No provision. There is a transfer of assets provision in Medicaid law that is similar to the committee proposal (Sec. 1917(c) of the Social Security Act).

*Explanation of provision*

The committee proposal delays eligibility for any child applicant whose parents or guardians, in order to qualify a child for benefits, dispose of assets for less than fair market value within 36 months of the date of application. The provision stipulates that any assets in a trust in which the child (i.e., parent or representative payee) has control shall be considered assets of the child and subject to the 36-month "look-back" rule. The delay (in months) is equal to the amount of assets divided by the SSI standard benefit. This provision is effective 90 days after the date of enactment.

*Reason for change*

The intention of the SSI program for children is to provide benefits to low-income young people who are severely disabled. Families should not be allowed to evade financial deeming levels by divesting assets or placing them in trusts over which the recipient has ultimate control.

*Effective date*

This provision shall be effective with respect to transfers that occur at least 90 days after the date of enactment.



*(2) Requirement to Establish Account**Present law*

No provision.

*Explanation of provision*

This section requires the representative payee (i.e., the 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 for the following allowable expenses: 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 has found that large lump-sum payments have been subject to misuse. Requiring the establishment of special accounts is designed to increase the likelihood that benefits will be spent on the needs of the 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*

Federal law stipulates that when individuals enter a hospital or other medical institution in which more than half of the bill is paid by the Medicaid program, their monthly SSI benefit standard is reduced to \$30 per month. 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 will prescribe necessary regulations within 3 months after enactment.

*Reason for change*

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

*Effective date*

Date of enactment.

## CHAPTER 3—ADDITIONAL ENFORCEMENT PROVISIONS

## 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 (currently \$470) or couple (currently \$705) (plus any State supplementary payments), benefits will be paid in 3 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 medicine) 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 individuals' ability to use retroactive benefits they receive in a more controlled and rational 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 meet program income eligibility standards. By receiving retroactive payments in installments, each of which would be excluded from resources for 6 months, individuals 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. RECOVERY OF SSI OVERPAYMENTS FROM SOCIAL SECURITY BENEFITS

*Present law*

Generally, when an overpayment is made, recovery shall be made by adjusting future payments or by recovering the overpayment from the individual.

*Explanation of provision*

If the Commissioner is unable to recover the overpayment through future payment adjustments or direct recovery, the Commissioner may decrease any OASI or SSDI payment to the individual or their estate. As a result of this action, no individual may become eligible for SSI or eligible for increased SSI benefits.

*Reason for change*

The effectiveness of the recovery process is limited. Many SSI overpayments cannot be recovered through withholding from SSI benefits because the overpaid individual no longer receives SSI benefits. Nearly half of these individuals, however, continue to receive Social Security benefits from which the overpayment could be recovered. Individuals affected by this proposal would be protected by current Social Security law and policy, which provide for waiver of overpayments under certain circumstances and for a gradual repayment schedule that takes into account the individual's financial situation.

*Effective date*

Date of enactment.

13. REGULATIONS

*Present law*

No provision.

*Explanation of provision*

The Commissioner of Social Security and the Secretary of HHS will prescribe necessary regulations within 3 months after enactment.

*Reason for change*

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

*Effective date*

Date of enactment.

## CHAPTER 4—STATE SUPPLEMENTATION PROGRAMS

## 14. REPEAL OF MAINTENANCE OF EFFORT REQUIREMENTS APPLICABLE TO OPTIONAL STATE PROGRAMS FOR SUPPLEMENTATION OF SSI

*Present law*

Since the beginning of the SSI program, States have had the option to supplement (with State funds) the Federal SSI payment. The purpose of section 1618 of the Social Security Act was to encourage States to pass along to SSI recipients the amount of any Federal SSI benefit increase. Under section 1618, a State that is found to be out of compliance with the “pass along/maintenance of effort provision” is subject to loss of its Medicaid reimbursements. 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. In effect, section 1618 requires that once a State elects to provide supplementary payments, it must continue to do so.

*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 broadens States’ ability to manage their supplemental benefit programs which provide State-funded benefits to SSI recipients. It is the intent of the committee that the Federal Government should not have the power to deprive States of their right to manage a program that is optional under federal law.

*Effective date*

Date of enactment.

## CHAPTER 5—STUDIES REGARDING SUPPLEMENTAL SECURITY INCOME PROGRAM

15. *Annual Report on the Supplemental Security Income Program**Present law*

To date, the Department of Health and Human Services and now the Social Security Administration have collected, compiled, and published annual and monthly SSI data, but federal law does not require an annual report 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 Congress and the President to receive a comprehensive report each year to better promote effective oversight of the SSI program. Under current law, the drafting of such a focused, complete report is not required.

*Effective date*

Date of enactment.

## 16. STUDY OF DISABILITY DETERMINATION PROCESS

*Present law*

No provision.

*Explanation of provision*

Within 90 days of enactment, the Commissioner must contract with the National Academy of Sciences or another independent entity to conduct a comprehensive study of the disability determination process for SSI and SSDI. The study must examine the validity, reliability and consistency with current scientific standards of the Listings of Impairments cited above. The study must also examine the appropriateness of the definitions of disability (and possible alternatives) used in connection with SSI and SSDI, and the operation of the disability determination process, including the appropriate method of performing comprehensive assessments of individuals under age 18 with physical or mental impairments. The Commissioner must issue interim and final reports of the findings and recommendations of the study within 18 months and 24 months, respectively, from the date of contract for the study.

*Reason for change*

Both the SSI and SSDI program have experienced tremendous growth, particularly over the last 5 years. The Listings, as defined in regulation, have served as the chosen method to determine disability, yet they have never been validated. This study will better enable Congress to assess current federal disability determination policy and make any legislative changes that may be necessary.

*Effective date*

Date of enactment.

## 17. 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 should investigate 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 6—NATIONAL COMMISSION ON THE FUTURE OF DISABILITY

*Present law*

No provision.

*Explanation of provision*

This section establishes a new Commission on the future of disability.

The Commission must study all matters related to the nature, purpose and adequacy of all federal programs for the disabled (and especially SSI and SSDI), including: projected growth in the number of individuals with disabilities; possible performance standards for disability programs; the adequacy of federal rehabilitation research and training; and the adequacy of policy research available to the Federal Government and possible improvements. The Commission must submit to the President and the proper congressional committees recommendations and possible legislative proposals effecting needed program changes.

The Commission is to be composed of 15 members who are appointed by the President and congressional leadership and who serve for the life of the Commission. Members are to be chosen based on their education, training or experience, with consideration for representing the diversity of individuals with disabilities in the U.S. The Commission membership will also reflect the general interests of the business and taxpaying community.

The Commission will have a director, appointed by the Chair, and appropriate staff, resources, and facilities.

The Commission may conduct public hearings and obtain information from federal agencies necessary to perform its duties.

The Commission must issue an interim report to Congress and the President not later than 1 year prior to terminating. A final public report must be submitted prior to termination.

The Commission will terminate 2 years after first having met and named a chair and vice chair.

This section authorizes the appropriation of such funds as are necessary to carry out the purposes of the Commission.

*Reason for change*

The committee creates this Commission to examine growth in the SSI and SSDI programs and reported barriers to employment and independence created by these programs. The Commission is to make appropriate recommendations to the President and the Congress.

*Effective date*

Date of enactment.

## SUBTITLE C—CHILD SUPPORT ENFORCEMENT

### CHAPTER 1—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, tak-

ing into account the best interests of the child, that good cause and 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 taxpayers 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 nonwelfare 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 monies 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 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 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 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 pro-

vides 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 provided 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 identify have occurred.

*Effective date*

October 1, 1996.

## 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.

## CHAPTER 2—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 3 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 committee proposal is automation and mass processing of records. The com-

mittee 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 than 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 2 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 2 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 form 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*

In general, no provision. Section 1128 of the Social Security Act is an antifraud provision which excludes individuals and entities that have committed fraud from participation in medicare and State health care programs. Section 1128A pertains to civil monetary penalties and describes the appropriate procedures and proceedings for such penalties.

*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 number 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 5 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 2 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 3 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 employee 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 5 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 stated in the order; if the terms and conditions are not specified employers should follow those of the State in which the obligor lives. The section includes a definition of income to be used in interstate withholding and 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 on Ways and Means has received abundant information 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 establishes a definition of income so employers will know exactly which payments are subject to income withholding and allows employers to follow the laws of their own State if an order received from another State is unclear on its face.

*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 purpose 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 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 contains 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 2 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 2 working days and to report information obtained from matches to the State child support agency responsible for the case within 2 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 sec-

tion, 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 information 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 3 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 on Ways and Means.

#### *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.

# CHAPTER 3—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 imposes 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 February 1996, 26 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 on Ways and Means but is included here for sake of completeness.)

*Present law*

Federal law requires States to treat past-due support obligations as final judgments 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 5 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, partnerships 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 sup-

port, their ability to quickly and efficiently obtain support payments will be greatly improved.

*Effective date*

October 1, 1996.

CHAPTER 4—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 acknowledgement 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.

CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING

20. PERFORMANCE-BASED INCENTIVES AND PENALTIES

*Present law*

*Incentive Adjustments to Federal Matching Rate.* The Federal Government reimburses approved administrative expenditures of States at a rate of 66 percent. In addition, the Federal Government pays States an incentive amount ranging from 6 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 per-

cent, 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 1 percent nor more than 2 percent for the first failure to comply; by not less than 2 percent nor more than 3 percent for the second consecutive failure to comply; and by not less than 3 percent nor more than 5 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, 1997.

*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, at State option, 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, at State option, 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 2 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 12 percentage point 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 per-

formance—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 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 1 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 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 expended 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 1 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 2 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, 1996.

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.

The Secretary also must report the compliance, by State, with IV-D standards for responding to requests for child support assistance from other States and standards for distributing child support collections.

*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.

#### CHAPTER 6—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 3 years under some circumstances. States are required to notify both resident and non-resident parents of their right to a review.

*Explanation of provision*

Every 3 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 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.

*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.

27. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES  
RELATING TO CHILD SUPPORT

(This provision is not under jurisdiction of the Committee on Ways and Means 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.

CHAPTER 7—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, et cetera.)

*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 payments, 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, veterans' 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 on Ways and Means 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 residential 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 sup-

port 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. Not surprisingly, the Committee on Ways and Means has received testimony, including documentary evidence, that 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 on Ways and Means 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 ensuring 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 noncustodial 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 held 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 on Ways and Means 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.

CHAPTER 8—MEDICAL SUPPORT

43. CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER (THIS PROVISION IS NOT UNDER JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS 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 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.

CHAPTER 9—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 en-

forcement 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 nonprofit 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, 1996.

CHAPTER 10—EFFECT OF ENACTMENT

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 1 year after the effective date of the necessary State constitutional amendment or 5 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.

#### SUBTITLE D: RESTRICTING WELFARE TO 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.

#### CHAPTER 1—ELIGIBILITY FOR FEDERAL BENEFIT

##### 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 non-immigrant 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 1 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 5 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 1 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 1880's, 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 1 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 resi-

dent aliens who arrive after the date of enactment for their first 5 years in the U.S. Programs that are not restricted to legal non-citizens 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 5 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 non-citizens arriving in the U.S. after the date of enactment during their first 5 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.

## CHAPTER 2—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 on Ways and Means 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 communicable 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 on Ways and Means 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 non-immigrant 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 1 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 5 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.

#### CHAPTER 3—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 welfare 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 3 years of entry. Through September 1996, sponsor-to-alien deeming applies to a sponsored alien seeking SSI within 5 years of entry, after which the deeming period reverts to 3 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 diseases, 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 on Ways and Means 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 ben-

efits 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.

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 on Ways and Means 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.

## CHAPTER 4—GENERAL PROVISIONS

## 12. DEFINITIONS

*(1) In general*

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 1 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 on Ways and Means 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 on Ways and Means 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 on Ways and Means 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.

## CHAPTER 5—CONFORMING AMENDMENTS

### 17. CONFORMING AMENDMENTS RELATED TO ASSISTED HOUSING

(This provision is not under jurisdiction of the Committee on Ways and Means 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.

## CHAPTER 6—EARNED INCOME CREDIT DENIED TO UNAUTHORIZED EMPLOYEES

### 18. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES

*Present law.* 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 taxpayer's 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 taxpayers 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 taxpayers 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.

Thus, for 1997 the parameters are projected to be as follows:

	Two or more qualifying children	One qualifying child	No qualifying children
Credit rate (percent) .....	40.00	34.00	7.65
Earned income amount .....	\$9,120	\$6,500	\$4,330
Maximum credit .....	\$3,648	\$2,210	\$331
Phaseout threshold .....	\$11,910	\$11,910	\$5,420
Phaseout rate (percent) .....	21.06	15.98	7.65
Phaseout ends .....	\$29,232	\$25,740	\$9,750

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, 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.

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, 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.

*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.

*Reason 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.

*Effective date.* The provision is effective for taxable years beginning after December 31, 1995.

For additional changes regarding the Earned Income Credit, see Subtitle H: Miscellaneous Provisions.

## SUBTITLE E—REFORM OF PUBLIC HOUSING

### 1. 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*

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.

**SUBTITLE F—CHILD PROTECTION BLOCK GRANT PROGRAMS AND FOSTER CARE, ADOPTION ASSISTANCE, AND INDEPENDENT LIVING PROGRAMS**

**CHAPTER 1—CHILD PROTECTION BLOCK GRANT PROGRAM AND FOSTER CARE, ADOPTION ASSISTANCE, AND INDEPENDENT LIVING PROGRAMS**

*Note.* Under current law, there are at least 36 programs designed to help children who are victims of abuse or neglect. These programs address the child protection issue by supporting abuse reporting and investigation; abuse prevention; child and family assessment, preservation, and support; foster care; adoption; and training of social workers, foster parents, judges, and others. These programs can be divided into two general categories. The first is entitlement programs, all under jurisdiction of the Committee on Ways and Means, nearly all of which provide unlimited funding for foster and adoption maintenance payments, administrative costs, and training. The Family Preservation and Support Program provides capped entitlement funds to help States provide services that keep families together and prevent abuse; the Independent Living program provides capped entitlement funds to help children in foster care make the transition to living on their own. The second group of programs are appropriated programs. These programs are smaller and, except the Child Welfare Services Program, are generally under the jurisdiction of the Economic and Educational Opportunities Committee. The committee provision retains all the open-ended entitlement programs to ensure that States have adequate resources to help abused children that must be removed from their homes. The provision also combines the two capped entitlement programs and many of the smaller programs into a block grant that will simplify administration, promote flexibility, and increase efficiency. Working in conjunction with the Committee on Economic and Educational Opportunity, the committee has created a block grant that is identical to a block grant created by the Opportunities Committee. Across the two committees, a total of 11 programs are combined into the new block grant structure. Programs under jurisdiction of the Opportunities Committee are mentioned briefly below to clarify the structure of the overall Federal program for helping abused children and their families.

**Subchapter A—Block Grants to States for the Protection of Children**

**1. PURPOSE**

*Present law*

Child Welfare Services, now provided for in Title IV-B of the Social Security Act, are designed to help States provide child welfare services, family preservation, and community-based family support services.

*Explanation of provision*

The proposed Child Protection Block Grant would replace current law under Title IV–B. The purpose of the Child Protection Block Grant is to:

- (1) identify and assist families at risk of abusing or neglecting their children;
- (2) operate a system for receiving reports of abuse or neglect of children;
- (3) improve the intake, assessment, screening, and investigation of reports of abuse and neglect;
- (4) enhance the general child protective system by improving risk and safety assessment tools and protocols;
- (5) improve legal preparation and representation, including procedures for appealing and responding to appeals of substantiated reports of abuse and neglect;
- (6) provide support, treatment, and family preservation services to families which are, or are at risk of, abusing or neglecting their children;
- (7) support children who must be removed from or who cannot live with their families;
- (8) make timely decisions about permanent living arrangements for children who must be removed from or who cannot live with their families;
- (9) provide for continuing evaluation and improvement of child protection laws, regulations, and services;
- (10) develop and facilitate training protocols for individuals mandated to report child abuse or neglect; and
- (11) develop and enhance the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

*Reason for change*

Under current law, Congress has created numerous programs to help States provide a range of services designed to help children at risk of abuse or neglect or already the victims of abuse and neglect. The purpose of the block grant is to allow States to have one pool of Federal funds from which to draw in order to implement the particular child welfare activities that best meet the needs of children and families in each State. By simplifying the administrative burden placed on States by multiple programs, the committee intends to reduce paperwork, to allow professionals to focus on providing services to children and families, and to allow States to apply resources where they are most needed.

The committee has received testimony from numerous witnesses in recent years that States could better protect children and save money if they were not burdened by rigid federal mandates. Thus, the approach taken by the committee is to retain the open-ended entitlements under Title IV–E of the Social Security Act while simultaneously creating a large block grant to provide States with the flexibility needed to reduce paperwork and provide funds where they are most needed.

*Effective date*

October 1, 1996.

## 2. ELIGIBLE STATES

*Present law*

To be eligible for funding under Title IV-B and IV-E, States must have State plans, developed jointly with the Secretary under Title IV-B, and approved by the Secretary under Title IV-E. In addition, to receive funds under the Child Abuse Prevention and Treatment Act (CAPTA), States must comply with certain requirements including submission of a State plan.

States must have a child welfare services plan developed jointly by the Secretary and the relevant State agency which provides for single agency administration and which describes services to be provided and geographic areas where services will be available. The State plan also must meet many other requirements, such as setting forth a 5-year statement of goals for family preservation and family support and assuring the review of progress toward those goals. For foster care and adoption assistance, States must submit for approval a Title IV-E plan providing for a foster care and adoption assistance program and satisfying numerous requirements. The Child Abuse Prevention and Treatment Act (CAPTA) requires States to have in effect a law for reporting known and suspected child abuse and neglect as well as providing for prompt investigation of child abuse and neglect reports, among many other requirements.

To receive funding under Title IV-B and IV-E of the Social Security Act, States must comply with certain procedures for removal of children from their families when necessary, must develop case plans for each child that are reviewed at least every 6 months and contain specified information, and must establish specific goals for the maximum number of eligible children who will remain in foster care for more than 24 months.

Under Title IV-B, for fiscal years beginning on or after April 1, 1996, State plans must provide assurances that:

(1) the State has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined: (i) the appropriateness of, and necessity for, the foster care placement; (ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and (iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

(2) the State is operating to the satisfaction of the Secretary: (i) a statewide information system on children who are or have been in foster care in the last year; (ii) a case review system for each child receiving foster care under the supervision of the State; (iii) a service program designed to help children return to families from which they have been removed; or be placed for adoption; (iv) a preplacement preventive service program designed to help children at risk remain with their families; and

(3) the State has reviewed State policies and procedures in effect for children abandoned at birth; and is implementing (or, will implement by October 31, 1996) such policies or procedures to enable permanent decisions with respect to the placement of such children to be made expeditiously. (For fiscal years beginning before April 1, 1996, these standards were incentive funding requirements that States had to meet to receive their full Title IV-B allotment, and were known as section 427 protections.)

Title IV-E State plans must provide that reasonable efforts will be made prior to the placement of a child in foster care to prevent or eliminate the need for removal of the child from her home and to make it possible for the child to return to her home.

Title IV-E State plans must provide that, where appropriate, all steps will be taken, including cooperative efforts with State AFDC and child support enforcement agencies, to secure an assignment of any rights to support of a child receiving foster care maintenance payments under Title IV-E.

*Explanation of provision*

An "Eligible State" is one that has submitted to the Secretary, not later than October 1, 1996 and every 3 years thereafter, a plan which has been signed by the Chief Executive Officer of the State. The plan must outline the State's Child Protection Program and provide several certifications regarding the nature of its child protection program.

A State plan must thoroughly describe the State Child Protection Program by describing State activities and procedures to be used for:

- (1) receiving and assessing reports of child abuse or neglect;
- (2) investigating such reports;
- (3) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;
- (4) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;
- (5) providing training for individuals mandated to report suspected cases of child abuse or neglect;
- (6) protecting children in foster care;
- (7) promoting timely adoptions;
- (8) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents if such relatives meet all relevant standards; and
- (9) providing services aimed at preventing child abuse and neglect.

The State plan must also certify that the State:

- (1) has in effect laws that require reporting of child abuse and neglect;
- (2) has in effect procedures for the immediate screening, safety assessment, and prompt investigation of child abuse or neglect reports;
- (3) has in effect procedures for the removal and placement of abused or neglected children;

(4) has in effect laws requiring immunity from prosecution under State and local laws for individuals making good faith reports of suspected or known cases of child abuse or neglect;

(5) has in effect no later than 2 years after enactment, laws and procedures affording individuals an opportunity to appeal an official finding of abuse or neglect;

(6) has in effect procedures for developing and reviewing written plans for the permanent placement of each child removed from the family that: specify the goal for achieving a permanent placement for the child in a timely fashion; ensure that the plan is reviewed every 6 months; and ensure that information about the child is gathered regularly and placed in the case record.

(7) has in effect a program to provide independent living services to 16–19 year old youths (and, at State option, youths up to age 22) who are in the foster care system but have no family to support them. (Under the proposal, States also will continue to receive capped entitlement grants for Independent Living services as under current law.)

(8) has in effect procedures or programs (or both) to respond to reports of medical neglect of disabled infants;

(9) has quantitative goals of the State child protection program;

(10) will comply with respect to fiscal years beginning on or after April 1, 1996, with the same child protection standards as under current law. Standards related to abandoned children must be met by October 1, 1997;

(11) will make reasonable efforts to prevent the placement of children in foster care and to make it possible for the child to return home. Each State must also certify that it provides services for children and families where maltreatment has been confirmed but the child remained with the family;

(12) will take all appropriate steps, including cooperative efforts, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments; and

(13) has in effect requirements for disclosure of records only to specified individuals and entities, and provisions that allow for public disclosure of findings or information about cases of child abuse or neglect that have resulted in a child fatality or near fatality (except that such disclosure shall not include identifying information about the individual initiating a report of suspected child abuse or neglect).

The Secretary of HHS must determine whether the State plan includes the required materials and certifications (except material related to the certification of State procedures to respond to reporting of medical neglect of disabled infants). The Secretary cannot add new elements beyond those listed above.

#### *Reason for change*

The revised State plan consolidates four different State plans and applications into a single requirement. The new plan requirement is designed to ensure that States are responsible for planning and implementing the essential elements of an effective and effi-

cient child welfare system without placing undue administrative burdens on States. To ensure continual improvement of their child protection system, States are required to identify quantifiable goals. The role of the Federal Government is to ensure that States have a child protection system in place, that Federal money is actually spent on permissible child protection activities, and that information about the effectiveness of the system is made public. The committee provision is similar to the requirement of current law that States must submit a written plan outlining their child welfare program before they are eligible for benefits.

*Effective date*

October 1, 1996.

3. GRANTS TO STATES FOR CHILD PROTECTION

*Present law*

Title IV–B of the Social Security Act contains both discretionary and capped entitlement funding for helping States provide assistance to troubled families and their children. Of capped entitlement funding for family preservation and support, 1 percent is reserved for Indians. For child welfare services under Title IV–B, \$325 million is authorized annually. For family preservation and support services, \$225 million is authorized in fiscal year 1996; \$240 million in fiscal year 1997; and \$255 million in fiscal year 1998. State allotments for child welfare services are based on the State's child population and per capita income. State allotments for family preservation and support are based on the number of children in the State receiving Food Stamps. Funds must be used for: “protecting and promoting the welfare of children \* \* \* preventing unnecessary separation of children from their families \* \* \* restoring children to their families if they have been removed \* \* \* family preservation services \* \* \* community-based family support services to promote the well-being of children and families and to increase parents' confidence and competence.” For-profit foster care providers are not eligible for Federal funding under Title IV–E. Section 1123 of the Social Security Act requires the Secretary to establish by regulation a new Federal review system for child welfare which would allow penalties for misuse of funds. Regulations are expected to be published during the summer of 1996. (This provision would not be affected by the committee proposal.)

*Explanation of provision*

The block grant contains both entitlement and appropriated funds. From the entitlement funds, each eligible State must receive from the Secretary an amount equal to the State share of the Child Protection Block Grant amount for the fiscal year (see below). A set-aside is provided for Indians equal to 1 percent of the entitlement money flowing into the block grant.

Each eligible State is also given funds equal to the State share of the authorization component of the block grant that is appropriated each year. Indians are given 0.36 percent of the appropriated money flowing into the block grant. Funds for the author-



ization component of the block grant under this section are not to exceed \$325 million each year.

The term “child protection amount” means: \$240 million for fiscal year 1997; \$255 million for fiscal year 1998; \$262 million for fiscal year 1999; \$270 million for fiscal year 2000; \$278 million for fiscal year 2001; \$286 million for fiscal year 2002.

The term “State share” means the qualified child protection expenses of a State divided by the sum of the qualified child protection expenses of all of the States. The term “qualified State expenditure” means Federal grants to the State under the Child Welfare Services Grant and the Family Preservation and Support Services Grant in fiscal year 1994 or the average of 1992–94, whichever is greater. In determining amounts for fiscal years 1992 through 1994, the Secretary shall use information listed as actual amounts in the Justification for Estimates for Appropriation Committees of the Administration for Children and Families for fiscal years 1994 through 1996.

A State to which funds are paid under this section may use the money in any manner the State deems appropriate to accomplish the purposes of this part, but the funds must be expended not later than the end of the immediately succeeding fiscal year. For-profit, foster care facilities are eligible to receive funds from the block grant.

Under the terms and conditions of the block grant, States are subject to several penalties:

(1) *For misuse of funds.* If an audit determines that any amounts provided to a State have been spent in violation of this part, the Secretary must reduce the grant otherwise payable for the next fiscal year by the amount of the misspent funds, plus 5 percent of the grant;

(2) *For failure to maintain effort.* If States fail to maintain State spending equal to State expenditures under Part B of Title IV in fiscal year 1994, the Secretary must reduce the grant payable under this section by an amount equal to the previous year’s shortfall in maintenance of effort. A penalty of 5 percent of the State grant must also be imposed. States must maintain 100 percent of prior effort in fiscal years 1997 and 1998; and 75 percent in fiscal years 1999 through 2002;

(3) *For failure to submit report.* If the Secretary determines that the State has not submitted mandatory adoption and foster care data reports within 6 months of the end of the fiscal year, the Secretary must reduce by 3 percent the amount of the State’s block grant. If the report is submitted before the end of the immediately succeeding fiscal year, the Secretary shall rescind the penalty.

Except in the case of failure to maintain effort, the Secretary may not impose a penalty if the determination is made that the State has reasonable cause for failing to comply with the requirement. Further, a State must be informed before any penalty is imposed and be given an opportunity to enter into a corrective compliance plan. The provision includes a series of deadlines for submission of such corrective compliance plans and review by the Federal Government. No quarterly payment can be reduced by more than 25 percent; penalty amounts above 25 percent must be carried forward to subsequent quarters.

Each territory is entitled to receive from the Secretary for any fiscal year an amount equal to the total obligations due to the territory under the Social Security Act for fiscal year 1995.

Except as expressly provided in this Act, the Secretary may not regulate the conduct of States under this part or enforce any provision of this Act.

*Reason for change*

The major purpose of creating the Child Protection Block Grant is to ensure that States have maximum flexibility in their use of Federal resources to meet the needs of abused children and their families.

After consulting with several States, the committee decided that the fairest way to divide Child Protection Block Grant funds among the States was to give each State the same proportion of block grant funds each year as it received of several programs that are included in the block grant for the year 1994 or for the average of the years 1992–1994, whichever is greater.

States are given great latitude in the use of funds because the proposal is based on the understanding that States know best how to help children in troubled families that reside in their State. In the continuum of services that extends from the identification of children who may be victims of abuse or neglect to the treatment of families and the placement of children in foster as well as adoptive families, States have the flexibility to decide where Federal dollars will do the most good.

Given the Federal responsibility to ensure that funds are spent in accord with Federal purposes, States will lose any expenditures on purposes other than child protection and experience a 3 percent reduction in annual funding if they fail to report mandatory adoption and foster care data that will help Congress and the public evaluate program performance.

*Effective date*

October 1, 1996.

#### 4. DATA COLLECTION AND REPORTING

*Present law*

In 1986, Congress established the National Advisory Committee on Adoption and Foster Care Information to assist HHS in designing a new comprehensive nationwide data collection system with full system implementation expected to be completed by October 1991. However, final regulations were not issued until December 1993 with the first transmission of data due May 1995. All States are now participating in the Adoption and Foster Care Analysis and Reporting System (AFCARS). HHS is currently analyzing the first datasets transmitted from the States. The final rules require semi-annual reporting on all children in foster care. The data collection is child and case specific and is intended to yield a semi-annual snapshot of child welfare trends. It is also intended to yield information that will enable policymakers to “track” children in care and find out the reasons why children enter foster care, how

long children stay in foster care, and what happens to children while in foster care as well as after they leave foster care.

In 1993, Congress authorized enhanced funding of 75 percent for both the AFCARS system and for several additional functions not originally envisioned as part of AFCARS capability. These new functions included electronic data exchange within the State, automated data collection on all children in foster care, collection and management of information necessary to facilitate delivery of child welfare services and to determine eligibility for such services, case management, case plan development and monitoring, and information security. Enhanced funding of 75 percent for this second data system, which HHS calls the Statewide Automated Child Welfare Information System (SACWIS), expires on October 1, 1996.

*Explanation of provision*

The committee provision leaves unaltered the current State data reporting system on child protection. The enhanced funding rate of 75 percent for the SACWIS system is extended for 1 additional year.

*Reason for change*

HHS has informed the committee that the first wave of data from the AFCARS system has now been reported and that analysts at the Department are confident that the data requirements are being met by States. As a result, Congress and the public will soon have reliable national information about foster care and adoption. Given the progress that seems to be taking place, the committee is leaving the data reporting requirements of current law intact.

The committee has received extensive testimony about the administrative complexity of child protection programs and about its inefficiencies and huge paperwork burden. The SACWIS system was designed to improve efficiency by developing world class data management systems tailored specifically to the needs of child protection. Based on testimony received and inquiries made by the committee, 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.

*Effective date*

October 1, 1996.

5. FUNDING FOR STUDIES OF CHILD WELFARE

*Present law*

No provision.

*Explanation of provision*

The Secretary is entitled to receive, for each of fiscal years 1996 through 2002, \$6 million to conduct a national study based on ran-

dom samples of children who are at risk of child abuse or neglect, and \$10 million for other research.

*Reason for change*

The committee proposal provides the Secretary with funds to support a major new scientific study that will collect information on the treatment and outcomes of a national sample of children entering the child welfare system. This information will provide Congress and the American public with the first nationally representative information about the condition and performance of the Nation's child welfare system, about the number of children in foster care, about the type of care they receive, about the length of spells in foster care, about the number of placements, and about the effects of various foster care arrangements on children. In addition, the Secretary is provided with \$10 million annually to conduct other studies of child protection to increase our knowledge about the causes and treatment of child abuse and neglect.

*Effective date*

This provision is effective upon enactment.

## 6. DEFINITIONS

*Present law*

The term "child care institution" means a licensed nonprofit private or public facility which accommodates no more than 25 children. The term does not apply to detention facilities, forestry camps, training schools, or centers for delinquent children.

*Explanation of provision*

Same as present law, except the word "nonprofit" is deleted.

*Reason for change*

Since 1980, public and nonprofit agencies have been the only providers eligible to participate in child protection activities. The committee provision allows the private, for-profit providers to participate in providing services to troubled children under Parts B or E if States determine that the services they provide are appropriate.

*Effective date*

October 1, 1996.

## 7. CONFORMING AMENDMENTS

*Present law*

No provision.

*Explanation of provision*

This section of the provision makes a series of technical and conforming amendments to the Social Security Act and the Omnibus Budget Reconciliation Act of 1986.

*Reason for change*

These amendments simply bring current law into conformity with the provisions recommended by the committee.

*Effective date*

October 1, 1996.

Subchapter B—Foster Care, Adoption Assistance, and Independent Living Programs

8. CHANGES IN TITLE IV—E OF THE SOCIAL SECURITY ACT

The committee proposal retains the policy of current law with regard to the foster care, adoption assistance, and independent living programs under Title IV—E. Thus, open-ended entitlement matching funds will continue to be available for maintenance payments, administrative and child placement costs, and training expenses for both foster care and adoption assistance. The independent living program will continue as a capped entitlement. Medicaid eligibility is guaranteed for children in foster care and those covered under adoption assistance agreements. However, the State plan required for Title IV—E under current law is consolidated into the single State plan required for the proposed Child Protection Block Grant. In addition, the proposal deletes a current law provision requiring that a single State agency administer both Title IV—B and Title IV—E. Statutory references to “State agency” are changed to “State.”

Rather than making numerous technical amendments to current law, section 711 of the proposal restates the statutory provisions authorizing the foster care, adoption assistance, and independent living programs. These provisions establish the purpose of Title IV—E, and define eligible States as those that have submitted plans meeting the requirements of the Child Protection Block Grant. Current law provisions governing the operation of foster care, adoption assistance, and independent living, with necessary technical changes, are re-established in the proposal. Definitions currently found in Title IV—E are moved to the definitions section in the Child Protection Block Grant (see above). Likewise, data collection provisions currently in Title IV—E are moved to the Child Protection Block Grant.

There are three substantive differences between current law and the proposal with regard to foster care, adoption assistance, and independent living. First, Title I of the proposal replaces the AFDC program with a block grant for Temporary Assistance for Needy Families, which affects eligibility for Title IV—E. Under current law, children must have been removed from AFDC-eligible families to be eligible for Title IV—E assistance. The proposal establishes that children must be removed from families that would have met eligibility standards for AFDC, as in effect on the day before enactment of these amendments and adjusted for inflation in accordance with regulations issued by the Secretary.

Second, the term “nonprofit” is deleted from references to private child care institutions, including in the definition of such institutions. This change is consistent with the rule of interpretation under the Child Protection Block Grant, which states that this part shall not be interpreted to prohibit short- and long-term foster care facilities operated for profit from receiving funds under Part B or Part E.

Third, the committee proposal provides States with 1 year of enhanced funding (at 75 percent rather than 50 percent) to complete implementation of their Statewide Automated Child Welfare Information Systems (SACWIS).

*Reason for change*

The most notable feature of committee action on Title IV-E is that all the entitlement programs remain intact. In addition, the committee retains the guaranteed Medicaid coverage for children who receive maintenance payments from either the foster care or adoption programs. On the other hand, the committee provision does change current law in three ways.

First, the current law guarantee of eligibility for foster care and adoption maintenance payments for children eligible for the Aid to Families with Dependent Children (AFDC) program was disrupted because the AFDC statute was completely rewritten to give States the authority to establish their own welfare programs. To ensure that the eligibility of poor children for maintenance payments continues, the committee provision guarantees eligibility for all children from families that would have been eligible for the AFDC program as it existed in each State on the day before enactment of this legislation.

Second, the committee provision allows States to use private foster care facilities. The committee believes that States should be allowed to use private child care organizations because they are fully capable of providing quality services. States are responsible for ensuring that children are in safe and reliable care whether it is provided by public or private entities. The committee can see no reason to automatically refuse participation by an entire sector of the child caring community.

Third, the committee provided enhanced funding for the SACWIS system because automation is a vital part of providing quality child protection services. The committee has investigated progress in the States in creating SACWIS and has found that several States are now ready to begin actual implementation and that as many as half the States can be expected to have operational systems by next year if funding remains available. Thus, the committee is extending the enhanced funding rate of 75 percent to encourage States to invest money in these important systems.

*Effective date*

October 1, 1996.

Subchapter C—Miscellaneous

9. 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 of Health and Human Services must submit to Congress a legisla-

tive proposal providing for technical and conforming amendments required by the changes made in this subtitle of the proposal.

*Reason for change*

Given the substantial nature of changes in Subtitle IV–B of the Social Security Act, the committee wants to provide the Secretary with an opportunity to introduce appropriate technical and conforming amendments to make the statute more workable.

*Effective date*

Upon enactment.

10. SENSE OF THE CONGRESS REGARDING TIMELY ADOPTION OF  
CHILDREN

*Present law*

No provision.

*Explanation of provision*

This section expresses the sense of Congress that too many adoptable children are spending too much time in foster care, that States must take steps to increase the number of children who are adopted in a timely manner, and that States could achieve savings if they offered incentives for the adoption of special needs children, among other provisions.

*Reason for change*

By passing a new adoption tax credit and by enacting strong anti-discrimination measures in adoption, the Committee on Ways and Means has already taken major actions to promote adoption in the 104th Congress. This statement is intended to herald, in the strongest possible terms, the congressional consensus that Federal legislators, States, professionals participating in the Nation's child protection system, and individual citizens should do everything possible to promote removing children from foster care and, if appropriate, placing them with adoptive families. Stays in foster care should be as short as possible, and the move from foster care to adoptive placements should be made as quickly as possible.

*Effective date*

Upon enactment.

11. EFFECTIVE DATE; TRANSITION RULES

*Present law*

No provision.

*Explanation of provision*

The changes made in this subtitle will be effective on or after October 1, 1996. Provisions that authorize and appropriate funds in fiscal year 1996 for research and court improvements, and certain technical and conforming amendments are effective upon enactment. The proposal establishes transition rules for pending claims, actions and proceedings, and closing out accounts for programs that are terminated or substantially modified.

*Reason for change*

The effective date of October 1, 1996 was selected so that States could begin enjoying the benefits of the revised and expanded Child Care and Development Block Grant as soon as possible.

*Effective date*

Upon enactment.

## CHAPTER 2—CHILD AND FAMILY SERVICES BLOCK GRANT

The block grant and associated activities under Subtitle B are not under the jurisdiction of the Committee on Ways and Means. The committees with jurisdiction are the House Economic and Educational Opportunities Committee and the Senate Labor and Human Resources Committee. The Child and Family Services Block Grant created by Subtitle B consolidates the following programs into a single block grant: The Child Abuse Prevention and Treatment Act, the Abandoned Infants Assistance Act, adoption opportunities under the Child Abuse Prevention and Treatment and Adoption Reform Act, the family support centers under the McKinney Homeless Assistance Act, and the Temporary Child Care and Crisis Nurseries Act. The Child and Family Services Block Grant has the same State plan and certification requirements as the Child Protection Block Grant created by Subtitle A. The two Block Grants also have the same data collection and reporting requirements for child abuse incidence data and for the implementation of foster care and adoption tracking systems. The Child and Family Services Block Grant is authorized at \$230 million for fiscal year 1996 and “such sums as may be necessary” are authorized for fiscal year 1997 through fiscal year 2002. Title II of the Child and Family Services Block Grant provides that funds be available for research, demonstrations, training and technical assistance to better protect children from maltreatment. Funds under this block grant also will establish a National Clearinghouse for Information Relating to Child Abuse, provide demonstration grants for the development of innovative programs, provide technical assistance to States to assist with child abuse investigation and the termination of parental rights proceedings, and provide training for professionals in related fields. For these Title II activities, 12 percent of the \$230 million provided for this Block Grant is authorized. The Missing Children’s Assistance Act and the Victims of Child Abuse Act of 1990 are both reauthorized.

## SUBTITLE G—CHILD CARE

## 1. SHORT TITLE AND REFERENCES

*Present law*

No provision.

*Explanation of provision*

Short Title: Child Care and Development Block Grant Amendments of 1996. Unless otherwise specified, references should be considered as made to the Child Care and Development Block Grant Act of 1990.



*Reason 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 in making decisions on the child care that best suits their family's needs;
- (3) to encourage States to provide consumer information to help parents make informed child care choices;
- (4) to assist States in providing child care to parents trying to become independent of public assistance; and
- (5) to assist States in implementing the health, safety, licensing and registration standards established in State regulations.

*Reason 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 expires at the end of fiscal year 1995. Appropriations in fiscal year 1996 are \$935 million. (Sec. 658B of the CCDBG Act)

(Note: In addition to appropriated funds, entitlement funds are available for the Child Care Block Grant 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*

*Authorization of Appropriations.* There are authorized to be appropriated \$1,000,000,000 for each of fiscal years 1996 through 2002. (Additional mandatory funding will be provided for child care under the Social Security Act so that a total of \$22 billion will be provided for child care over the 7-year period fiscal years 1996–2002.)

*Child Care Entitlement.* The proposal establishes a single child care block grant and State administrative system by adding mandatory funds to the existing Child Care and Development Block Grant (CCDBG). Specifically, one discretionary and two mandatory streams of funding will be consolidated in a reconstituted CCDBG.

*a. State general entitlement*

From the stream of entitlement funding, each State 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, in 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 allocation to Indians (see below) and the State General Entitlement (see above) will be distributed among the States based on the formula currently used in the Title IV–A At-Risk Child Care grant. Specifically, funds will be distributed based on the proportion of the number of children 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 level under the Title IV–A child care programs. The money available to States through this source of funds for fiscal years 1997 through 2002, respectively, will be: \$0.76 billion, \$0.86 billion, \$0.96 billion, \$1.16 billion, \$1.36 billion, and \$1.51 billion.

If a State does not use its full portion of funds, the remaining portion will be redistributed to other States according to section 402(i) of the At-Risk Child Care grant (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*

Total child care funds under this proposal will equal \$22 billion for child care over the 7-year period fiscal years 1996–2002, including both the \$15 billion in mandatory funds discussed above and \$7 billion in discretionary funds. Under current law for the three existing AFDC-related child care programs, \$1.1 billion in manda-

tory funds will be spent in fiscal year 1996. In addition, a total of \$13.85 billion in mandatory funds would be authorized for child care in fiscal years 1997–2002, starting at \$2.0 billion in fiscal year 1997 and rising to \$2.7 billion in fiscal year 2002. Finally, as stated earlier, \$1 billion will be authorized annually in discretionary funds for the Child Care and Development Block Grant.

*d. Indian tribes*

One percent of all funds under the section are provided to Indian tribes.

*Use of Funds.* Funds shall only be used to provide child care assistance. Amounts received by a State, based on the amounts received in previous years, shall be available for use by the State without fiscal year limitation. All funds from both mandatory and discretionary sources must be transferred to the lead agency under the Child Care and Development Block Grant and integrated into the State child care programs.

Not less than 70 percent of the total amount of mandatory funds received by the State in a fiscal year must be used to provide child care assistance to families that are receiving assistance under a State program, families that are attempting to transition off public assistance, and families at risk of becoming dependent on public assistance.

*Reason 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. (Sec. 658D of the CCDBG Act)

*Explanation of provision*

The proposal requires States to identify a lead agency to administer all the child care funds received under the Act, including funds received 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.

*Reason for change*

The term “agency” was changed to “entity” to allow States more flexibility in determining how the block grant would be administered. Under this change, an entity, 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; outline of policies and procedures regarding parental choice of providers, summary of policies that guarantee unlimited parental access, parental complaints, and consumer education; and overview of policies that ensure compliance with State and local regulatory requirements, establishment of and compliance with health and safety requirements, and review of State licensing and regulatory requirements.

In addition, the State plan must provide that all funds will be used for child care services, and that 25 percent of funds will be reserved 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. (Sec. 658E of the CCDBG Act)

State plans must also 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, and 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.

*Explanation of provision*

The proposal requires the State plan to cover a 2-year period. States must provide a detailed description of procedures to be used to assure parental choice of providers. Instead of “providing assurances,” States must “certify” that procedures are in effect within the State to ensure unlimited parental access to the families providing care to children and to ensure parental choice of child care provider; the proposal also requires that the State plan provide a detailed description of such procedures. Instead of “providing assurances,” a State must “certify” that it maintains a record of parental complaints and requires the State to provide a detailed description of how such a record is maintained and made available. The proposal changes the consumer education part of the State plan to require assurances that the State will collect and disseminate consumer education information. States must certify that they have in effect child care licensing requirements and provide a detailed description of the requirements and how they are enforced. This provision does not require that licensing requirements be applied to specific types of child care providers. States must certify that procedures are in effect to ensure that child care providers receiving funds under this Act comply with applicable State or local health and safety requirements. The Secretary is required to develop minimum standards for Indian tribes and tribal organizations receiving assistance.

The proposal eliminates review of State licensing and regulatory requirements, notification to the Department of Health and Human Services (HHS) when standards are reduced, and supplementation. The proposal also eliminates the requirement that unlicensed providers be registered. The committee decided to retain a current law requirement that all States establish health and safety standards. The committee provision does not specify the particular standards that must be established, but all States must have requirements on prevention and control of infectious diseases (including immunizations), building and physical premises safety, and minimum health and safety training.

A summary of the facts relied upon by the State to determine that payment rates are sufficient to ensure equal access to child care must be included in the State plan. 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. States may spend no more than 5 percent on administrative costs.

States must spend a substantial portion of the amounts available to provide child care to low-income working families who are not working their way off welfare or are at risk of becoming welfare dependent. However, States first must comply with requirement that at least 70 percent of mandatory funds must be used for welfare or at-risk families. States must demonstrate how they will meet the child care needs of welfare and at-risk families.

*Reason 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.

While the committee is eliminating some of the burdensome requirements that are unnecessary for assuring the safety of children, the provision does retain the Federal requirements that States establish health and safety standards and ensure that providers of child care comply with applicable licensing and regulatory requirements.

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. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE

*Present law*

As stated above, 25 percent of State 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. Section 658G specifies how these funds are to be used. Of reserved funds, States are required to use no less than 20 percent 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.

*Reason 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.

## 7. REPEAL OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE REQUIREMENT

*Present law*

States are required to use no less than 75 percent of funds reserved for quality improvement 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.

*Reason 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.

## 8. ADMINISTRATION AND ENFORCEMENT

*Present law*

The Secretary of Health and Human Services (HHS) is required to coordinate HHS and other Federal child care agencies, to collect and publish a list of State child care standards every 3 years, and to provide technical assistance to States. The Secretary must also 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.

*Reason 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.

## 9. 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*

Payments received by a State for a fiscal year may be obligated in the fiscal year received or the succeeding fiscal year, instead of expended in the fiscal year received or the succeeding 3 fiscal years.

*Reason 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.

## 10. 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 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.” States must collect on a monthly basis, and report to HHS on a quarterly basis, the following information on each family receiving assistance:

- (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 assistance or other assistance under Part A;
  - (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, center, own home);
- (8) whether the provider was a relative;
- (9) the cost of care; and
- (10) the average hours per week of care.

Twice each year, the State must submit the following aggregate data to HHS:

- (1) the number of providers separately identified in accord with each type of provider 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.

*Reason 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.

#### 11. 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 Secretary must 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.

*Reason for change*

Annual reports are unnecessary; reports every 2 years are sufficient to keep the Congress and the public informed of progress in use of child care funds.

*Effective date*

October 1, 1996.

#### 12. ALLOTMENTS

*Present law*

The Secretary must reserve  $\frac{1}{2}$  of 1 percent of 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 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 allotment that

the Secretary determines is not needed by the State to carry out its plan for the allotment period must be reallocated 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 appropriated, authorized by this section 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.

*Reason 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.

### 13. 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*

Child care deposits are added 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 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."

*Reason 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.

## 14. 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.)

*Reason 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.

## 15. 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.

*Reason 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, funding for child care under existing programs continues.

## SUBTITLE H—MISCELLANEOUS PROVISIONS

## 1. EXPENDITURE OF FEDERAL FUNDS IN ACCORDANCE WITH LAWS AND PROCEDURES APPLICABLE TO EXPENDITURE OF STATE FUNDS

*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 expended in accordance with the laws and procedures applicable to the expenditure of the State's own resources (i.e., 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 on 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 capped at \$2.8 billion a year. Funds are allocated among States according to the State's share of its 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 10 percent.

*Reason 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. EARNED INCOME CREDIT PROVISIONS

*Present law**(1) Change test for disqualified income*

For taxable years beginning after December 31, 1995, an individual is not eligible for the 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).

*(2) Modify definition of adjusted gross income used for phasing out the credit*

For taxpayers with earned income (or 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 taxpayers with earned income (or AGI, if greater) in excess of the end of the phaseout range, no credit is allowed.

*(3) Second-tier phaseout of the credit*

Under present law, for taxpayers with earned income (or 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 taxpayers with earned income (or AGI, if greater) in excess of the end of the phaseout range, no credit is allowed.

*Explanation of provision**(1) Change test for disqualified income*

For purposes of the disqualified income test, 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 \$2,250, and the threshold is indexed for inflation after 1997.

*(2) Modify definition of adjusted gross income used for phasing out the credit*

The bill modifies the definition of AGI used for phasing out the credit by disregarding certain losses. 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) 50 percent of the net loss 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.

*(3) Second-tier phaseout of the credit*

The bill increases the phaseout rate of the credit for individuals with earned income (or modified AGI, if greater) in excess of a second-tier phaseout threshold. This second-tier phaseout does not apply to individuals with no qualifying children. For individuals with two or more qualifying children, the second-tier phaseout threshold is \$21,360 and the phaseout rate for income in excess of that threshold is 23 percent. For individuals with one qualifying child, the second-tier phaseout threshold is \$17,340 and the phaseout rate for income in excess of that threshold is 18 percent. These second-tier phaseout thresholds are indexed for inflation after 1997. The phaseout rate applied to income between the present-law phaseout threshold and the new, second-tier phaseout threshold is the same as would apply under present law for 1997 and future years. With these changes, the parameters of the credit for 1997 will be:

	Two or more qualifying children—	One qualifying child—	No qualifying children—
Credit rate (percent) .....	40.00	34.00	7.65
Earned income amount .....	\$9,120	\$6,500	\$4,330
Maximum credit .....	\$3,648	\$2,210	\$331
First-tier phaseout threshold .....	\$11,910	\$11,910	\$5,420
First-tier phaseout rate (percent) .....	21.06	15.98	7.65
Second-tier phaseout threshold .....	\$21,360	\$17,340	
Second-tier phaseout rate (percent) .....	23.00	18.00	
Phaseout ends .....	\$28,568	\$24,797	\$9,750

For years after 1997, the credit rates and the phaseout rates will be the same as in the preceding table. The dollar values will continue to be indexed, as under present law.

*Reason for change*

*(1) Change test for disqualified income*

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 it is indexing the threshold for inflation.

(2) *Modify definition of adjusted gross income used for phasing out the credit*

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; 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."

(3) *Second-tier phaseout of the credit*

The committee is concerned that the credit is not well-targeted. Under present law, in 1997 taxpayers with two or more qualifying children would be able to claim the credit even if they have AGI as high as \$29,232. Taxpayers with one qualifying child would be able to claim the credit even if they have AGI as high as \$25,740. The committee believes that taxpayers with such incomes do not need a tax credit designed to benefit the poor. Therefore, the committee increased the rates at which the credit is phased out for credit-eligible taxpayers with higher incomes.

*Effective date*

The provisions are effective for taxable years beginning after December 31, 1996.

### III. VOTES OF THE COMMITTEE

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of recommendations to the Committee on the Budget on budget reconciliation welfare recommendations.

#### MOTION TO REPORT THE RECOMMENDATIONS

The recommendations were ordered favorably reported to the Committee on the Budget by a rollcall vote of 23 yeas and 14 nays (with a quorum being present). The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....	X	.....	.....	Mr. Gibbons .....	.....	.....	.....
Mr. Crane .....	X	.....	.....	Mr. Rangel .....	.....	.....	X
Mr. Thomas .....	X	.....	.....	Mr. Stark .....	.....	.....	X
Mr. Shaw .....	X	.....	.....	Mr. Jacobs .....	.....	.....	X
Mrs. Johnson .....	X	.....	.....	Mr. Ford .....	.....	.....	X
Mr. Bunning .....	X	.....	.....	Mr. Matsui .....	.....	.....	X
Mr. Houghton .....	X	.....	.....	Mrs. Kennelly .....	.....	.....	X
Mr. Herger .....	X	.....	.....	Mr. Coyne .....	.....	.....	X
Mr. McCrery .....	X	.....	.....	Mr. Levin .....	.....	.....	X
Mr. Hancock .....	X	.....	.....	Mr. Cardin .....	.....	.....	X
Mr. Camp .....	X	.....	.....	Mr. McDermott .....	.....	.....	X
Mr. Ramstad .....	X	.....	.....	Mr. Kleczka .....	X	.....	.....
Mr. Zimmer .....	X	.....	.....	Mr. Lewis .....	.....	.....	X
Mr. Nussle .....	X	.....	.....	Mr. Payne .....	.....	.....	X

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Johnson .....	X	.....	.....	Mr. Neal .....	.....	.....	X
Ms. Dunn .....	X	.....	.....	Mr. McNulty .....	.....	.....	X
Mr. Collins .....	X	.....	.....				
Mr. Portman .....	X	.....	.....				
Mr. Hayes .....	.....	.....	.....				
Mr. Laughlin .....	X	.....	.....				
Mr. English .....	X	.....	.....				
Mr. Ensign .....	X	.....	.....				
Mr. Christensen .....	X	.....	.....				

### VOTES ON AMENDMENTS

Rollcall votes were conducted on the following amendments to the chairman's amendment in the nature of a substitute.

An amendment by Mr. Levin to Title I to retain current law medical assistance eligibility for families currently eligible for AFDC was defeated by a rollcall vote of 14 yeas to 16 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....	.....	X	.....	Mr. Gibbons .....	X	.....	.....
Mr. Crane .....	.....	.....	.....	Mr. Rangel .....	X	.....	.....
Mr. Thomas .....	.....	X	.....	Mr. Stark .....	X	.....	.....
Mr. Shaw .....	.....	X	.....	Mr. Jacobs .....	.....	.....	.....
Mrs. Johnson .....	X	.....	.....	Mr. Ford .....	.....	.....	.....
Mr. Bunning .....	.....	.....	.....	Mr. Matsui .....	.....	.....	.....
Mr. Houghton .....	.....	X	.....	Mrs. Kennelly .....	X	.....	.....
Mr. Herger .....	.....	X	.....	Mr. Coyne .....	X	.....	.....
Mr. McCrery .....	.....	X	.....	Mr. Levin .....	X	.....	.....
Mr. Hancock .....	.....	X	.....	Mr. Cardin .....	X	.....	.....
Mr. Camp .....	.....	.....	.....	Mr. McDermott .....	X	.....	.....
Mr. Ramstad .....	.....	X	.....	Mr. Kleczka .....	X	.....	.....
Mr. Zimmer .....	.....	.....	.....	Mr. Lewis .....	X	.....	.....
Mr. Nussle .....	.....	X	.....	Mr. Payne .....	.....	.....	.....
Mr. Johnson .....	.....	X	.....	Mr. Neal .....	X	.....	.....
Ms. Dunn .....	.....	X	.....	Mr. McNulty .....	X	.....	.....
Mr. Collins .....	.....	X	.....				
Mr. Portman .....	.....	X	.....				
Mr. Hayes .....	.....	.....	.....				
Mr. Laughlin .....	.....	X	.....				
Mr. English .....	X	.....	.....				
Mr. Ensign .....	.....	X	.....				
Mr. Christensen .....	.....	X	.....				

An amendment by Mr. Levin to Title I to allow States to provide noncash benefits, such as vouchers, to recipients who have already received 5 years of cash welfare benefits provided under the block grant was defeated by a rollcall vote of 15 yeas to 18 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....	.....	X	.....	Mr. Gibbons .....	.....	.....	.....
Mr. Crane .....	.....	X	.....	Mr. Rangel .....	X	.....	.....
Mr. Thomas .....	.....	X	.....	Mr. Stark .....	X	.....	.....
Mr. Shaw .....	.....	X	.....	Mr. Jacobs .....	.....	.....	.....
Mrs. Johnson .....	.....	X	.....	Mr. Ford .....	X	.....	.....
Mr. Bunning .....	.....	X	.....	Mr. Matsui .....	X	.....	.....
Mr. Houghton .....	.....	X	.....	Mrs. Kennelly .....	X	.....	.....
Mr. Herger .....	.....	.....	.....	Mr. Coyne .....	X	.....	.....
Mr. McCrery .....	X	.....	.....	Mr. Levin .....	X	.....	.....

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Hancock .....		X	.....	Mr. Cardin .....	X	.....	.....
Mr. Camp .....		X	.....	Mr. McDermott .....		.....	.....
Mr. Ramstad .....	X	.....	.....	Mr. Kleczka .....	X	.....	.....
Mr. Zimmer .....		X	.....	Mr. Lewis .....	X	.....	.....
Mr. Nussle .....		X	.....	Mr. Payne .....		.....	.....
Mr. Johnson .....		X	.....	Mr. Neal .....		.....	.....
Ms. Dunn .....		X	.....	Mr. McNulty .....	X	.....	.....
Mr. Collins .....		X	.....				
Mr. Portman .....		X	.....				
Mr. Hayes .....		.....	.....				
Mr. Laughlin .....		X	.....				
Mr. English .....	X	.....	.....				
Mr. Ensign .....		X	.....				
Mr. Christensen .....		X	.....				

An amendment by Mr. Ford to Title I to add equal protections language was defeated by a rollcall vote of 14 yeas to 22 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....		X	.....	Mr. Gibbons .....		.....	.....
Mr. Crane .....		X	.....	Mr. Rangel .....	X	.....	.....
Mr. Thomas .....		X	.....	Mr. Stark .....	X	.....	.....
Mr. Shaw .....		X	.....	Mr. Jacobs .....	X	.....	.....
Mrs. Johnson .....		X	.....	Mr. Ford .....	X	.....	.....
Mr. Bunning .....		X	.....	Mr. Matsui .....	X	.....	.....
Mr. Houghton .....		X	.....	Mrs. Kennelly .....	X	.....	.....
Mr. Herger .....		X	.....	Mr. Coyne .....	X	.....	.....
Mr. McCrery .....		X	.....	Mr. Levin .....	X	.....	.....
Mr. Hancock .....		X	.....	Mr. Cardin .....	X	.....	.....
Mr. Camp .....		X	.....	Mr. McDermott .....	X	.....	.....
Mr. Ramstad .....		X	.....	Mr. Kleczka .....	X	.....	.....
Mr. Zimmer .....		X	.....	Mr. Lewis .....	X	.....	.....
Mr. Nussle .....		X	.....	Mr. Payne .....		.....	.....
Mr. Johnson .....		X	.....	Mr. Neal .....	X	.....	.....
Ms. Dunn .....		X	.....	Mr. McNulty .....	X	.....	.....
Mr. Collins .....		X	.....				
Mr. Portman .....		X	.....				
Mr. Hayes .....		.....	.....				
Mr. Laughlin .....		X	.....				
Mr. English .....		X	.....				
Mr. Ensign .....		X	.....				
Mr. Christensen .....		X	.....				

An amendment by Mrs. Johnson to Title I to require medical assistance to be provided for all recipients of assistance under the State program funded under the States plan approved under Title XIX was agreed to by a rollcall vote of 19 yeas to 14 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....		X	.....	Mr. Gibbons .....		.....	.....
Mr. Crane .....		X	.....	Mr. Rangel .....	X	.....	.....
Mr. Thomas .....		X	.....	Mr. Stark .....	X	.....	.....
Mr. Shaw .....	X	.....	.....	Mr. Jacobs .....		.....	.....
Mrs. Johnson .....	X	.....	.....	Mr. Ford .....	X	.....	.....
Mr. Bunning .....		.....	.....	Mr. Matsui .....	X	.....	.....
Mr. Houghton .....	X	.....	.....	Mrs. Kennelly .....	X	.....	.....
Mr. Herger .....		X	.....	Mr. Coyne .....	X	.....	.....
Mr. McCrery .....		X	.....	Mr. Levin .....	X	.....	.....
Mr. Hancock .....		X	.....	Mr. Cardin .....	X	.....	.....

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Camp .....		X	.....	Mr. McDermott .....	X	.....	.....
Mr. Ramstad .....		X	.....	Mr. Kleczka .....	X	.....	.....
Mr. Zimmer .....	X	.....	.....	Mr. Lewis .....	X	.....	.....
Mr. Nussle .....			.....	Mr. Payne .....		.....	.....
Mr. Johnson .....		X	.....	Mr. Neal .....	X	.....	.....
Ms. Dunn .....		X	.....	Mr. McNulty .....	X	.....	.....
Mr. Collins .....		X	.....				
Mr. Portman .....		X	.....				
Mr. Hayes .....			.....				
Mr. Laughlin .....		X	.....				
Mr. English .....	X	.....	.....				
Mr. Ensign .....	X	.....	.....				
Mr. Christensen .....		X	.....				

An amendment by Mr. Cardin to amend State plans to include provisions of education and counseling (including abstinence-based programs), and pre-pregnancy health services, was agreed to by a rollcall vote of 19 yeas to 12 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....		X	.....	Mr. Gibbons .....		.....	.....
Mr. Crane .....		X	.....	Mr. Rangel .....	X	.....	.....
Mr. Thomas .....	X	.....	.....	Mr. Stark .....		.....	.....
Mr. Shaw .....	X	.....	.....	Mr. Jacobs .....	X	.....	.....
Mrs. Johnson .....	X	.....	.....	Mr. Ford .....	X	.....	.....
Mr. Bunning .....	X	.....	.....	Mr. Matsui .....	X	.....	.....
Mr. Houghton .....	X	.....	.....	Mrs. Kennelly .....	X	.....	.....
Mr. Herger .....		X	.....	Mr. Coyne .....	X	.....	.....
Mr. McCrery .....		X	.....	Mr. Levin .....	X	.....	.....
Mr. Hancock .....		X	.....	Mr. Cardin .....	X	.....	.....
Mr. Camp .....		X	.....	Mr. McDermott .....	X	.....	.....
Mr. Ramstad .....	X	.....	.....	Mr. Kleczka .....	X	.....	.....
Mr. Zimmer .....			.....	Mr. Lewis .....		.....	.....
Mr. Nussle .....			.....	Mr. Payne .....		.....	.....
Mr. Johnson .....		X	.....	Mr. Neal .....	X	.....	.....
Ms. Dunn .....	X	.....	.....	Mr. McNulty .....	X	.....	.....
Mr. Collins .....		X	.....				
Mr. Portman .....	X	.....	.....				
Mr. Hayes .....			.....				
Mr. Laughlin .....		X	.....				
Mr. English .....		X	.....				
Mr. Ensign .....		X	.....				
Mr. Christensen .....		X	.....				

An amendment by Mr. Rangel to Title to provide an exemption for families that “play by the rules” to receive benefits beyond the 5-year time limit was defeated by a rollcall vote 10 yeas to 19 nays, with 1 member voting present. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....		X	.....	Mr. Gibbons .....		.....	.....
Mr. Crane .....		X	.....	Mr. Rangel .....	X	.....	.....
Mr. Thomas .....		X	.....	Mr. Stark .....		.....	.....
Mr. Shaw .....		X	.....	Mr. Jacobs .....	X	.....	.....
Mrs. Johnson .....		X	.....	Mr. Ford .....	X	.....	.....
Mr. Bunning .....			.....	Mr. Matsui .....	X	.....	.....
Mr. Houghton .....		X	.....	Mrs. Kennelly .....	X	.....	.....
Mr. Herger .....		X	.....	Mr. Coyne .....	X	.....	.....
Mr. McCrery .....		X	.....	Mr. Levin .....		.....	X
Mr. Hancock .....		X	.....	Mr. Cardin .....		.....	.....
Mr. Camp .....		X	.....	Mr. McDermott .....	X	.....	.....

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Ramstad .....		X	.....	Mr. Kleczka .....	X	.....	.....
Mr. Zimmer .....		X	.....	Mr. Lewis .....		.....	.....
Mr. Nussle .....			.....	Mr. Payne .....		.....	.....
Mr. Johnson .....			.....	Mr. Neal .....	X	.....	.....
Ms. Dunn .....		X	.....	Mr. McNulty .....	X	.....	.....
Mr. Collins .....		X	.....				
Mr. Portman .....		X	.....				
Mr. Hayes .....			.....				
Mr. Laughlin .....		X	.....				
Mr. English .....		X	.....				
Mr. Ensign .....		X	.....				
Mr. Christensen .....		X	.....				

An amendment by Messrs. Neal and Payne to Title I to require a State's plan be approved by the Department of Health and Human Services for a State to be eligible to receive block grant funds was defeated by a rollcall vote of 13 yeas to 19 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....		X	.....	Mr. Gibbons .....		.....	.....
Mr. Crane .....		X	.....	Mr. Rangel .....	X	.....	.....
Mr. Thomas .....		X	.....	Mr. Stark .....	X	.....	.....
Mr. Shaw .....		X	.....	Mr. Jacobs .....	X	.....	.....
Mrs. Johnson .....		X	.....	Mr. Ford .....		.....	.....
Mr. Bunning .....		X	.....	Mr. Matsui .....		.....	.....
Mr. Houghton .....		X	.....	Mrs. Kennelly .....	X	.....	.....
Mr. Herger .....			.....	Mr. Coyne .....	X	.....	.....
Mr. McCreery .....		X	.....	Mr. Levin .....	X	.....	.....
Mr. Hancock .....		X	.....	Mr. Cardin .....	X	.....	.....
Mr. Camp .....		X	.....	Mr. McDermott .....	X	.....	.....
Mr. Ramstad .....		X	.....	Mr. Kleczka .....	X	.....	.....
Mr. Zimmer .....		X	.....	Mr. Lewis .....	X	.....	.....
Mr. Nussle .....			.....	Mr. Payne .....		.....	.....
Mr. Johnson .....			.....	Mr. Neal .....	X	.....	.....
Ms. Dunn .....		X	.....	Mr. McNulty .....	X	.....	.....
Mr. Collins .....		X	.....				
Mr. Portman .....			.....				
Mr. Hayes .....			.....				
Mr. Laughlin .....		X	.....				
Mr. English .....		X	.....				
Mr. Ensign .....		X	.....				
Mr. Christensen .....		X	.....				

An amendment by Messrs. Coyne and Matsui to Title I to disregard advance payments or refunds of the Earned Income Tax Credit was defeated by a rollcall vote of 13 yeas to 18 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....		X	.....	Mr. Gibbons .....		.....	.....
Mr. Crane .....		X	.....	Mr. Rangel .....	X	.....	.....
Mr. Thomas .....		X	.....	Mr. Stark .....	X	.....	.....
Mr. Shaw .....		X	.....	Mr. Jacobs .....		.....	X
Mrs. Johnson .....		X	.....	Mr. Ford .....	X	.....	.....
Mr. Bunning .....		X	.....	Mr. Matsui .....	X	.....	.....
Mr. Houghton .....		X	.....	Mrs. Kennelly .....	X	.....	.....
Mr. Herger .....			.....	Mr. Coyne .....	X	.....	.....
Mr. McCreery .....		X	.....	Mr. Levin .....	X	.....	.....
Mr. Hancock .....			.....	Mr. Cardin .....	X	.....	.....
Mr. Camp .....		X	.....	Mr. McDermott .....	X	.....	.....

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Ramstad .....		X	.....	Mr. Kleczka .....	X	.....	.....
Mr. Zimmer .....			.....	Mr. Lewis .....	X	.....	.....
Mr. Nussle .....			.....	Mr. Payne .....		.....	.....
Mr. Johnson .....			.....	Mr. Neal .....	X	.....	.....
Ms. Dunn .....		X	.....	Mr. McNulty .....	X	.....	.....
Mr. Collins .....		X	.....				
Mr. Portman .....		X	.....				
Mr. Hayes .....			.....				
Mr. Laughlin .....		X	.....				
Mr. English .....		X	.....				
Mr. Ensign .....		X	.....				
Mr. Christensen .....		X	.....				

An amendment by Messrs. Kleczka and English to Title I to require vouchers if States opt to end cash benefits before 5 years was defeated by a rollcall vote of 17 yeas to 19 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....		X	.....	Mr. Gibbons .....			X
Mr. Crane .....		X	.....	Mr. Rangel .....			X
Mr. Thomas .....		X	.....	Mr. Stark .....			X
Mr. Shaw .....		X	.....	Mr. Jacobs .....			X
Mrs. Johnson .....		X	.....	Mr. Ford .....	X		
Mr. Bunning .....		X	.....	Mr. Matsui .....			X
Mr. Houghton .....		X	.....	Mrs. Kennelly .....			X
Mr. Herger .....		X	.....	Mr. Coyne .....	X		
Mr. McCrery .....		X	.....	Mr. Levin .....	X		
Mr. Hancock .....		X	.....	Mr. Cardin .....	X		
Mr. Camp .....		X	.....	Mr. McDermott .....	X		
Mr. Ramstad .....		X	.....	Mr. Kleczka .....	X		
Mr. Zimmer .....		X	.....	Mr. Lewis .....	X		
Mr. Nussle .....		X	.....	Mr. Payne .....			
Mr. Johnson .....		X	.....	Mr. Neal .....	X		
Ms. Dunn .....		X	.....	Mr. McNulty .....	X		
Mr. Collins .....		X	.....				
Mr. Portman .....		X	.....				
Mr. Hayes .....			.....				
Mr. Laughlin .....		X	.....				
Mr. English .....	X		.....				
Mr. Ensign .....	X		.....				
Mr. Christensen .....	X		.....				

An amendment by Mr. Levin to Title I to uncap the contingency fund in a severe recession was defeated by a rollcall vote of 15 yeas to 19 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....		X	.....	Mr. Gibbons .....	X	.....	.....
Mr. Crane .....			.....	Mr. Rangel .....	X	.....	.....
Mr. Thomas .....			.....	Mr. Stark .....	X	.....	.....
Mr. Shaw .....		X	.....	Mr. Jacobs .....	X	.....	.....
Mrs. Johnson .....		X	.....	Mr. Ford .....	X	.....	.....
Mr. Bunning .....		X	.....	Mr. Matsui .....	X	.....	.....
Mr. Houghton .....		X	.....	Mrs. Kennelly .....	X	.....	.....
Mr. Herger .....			.....	Mr. Coyne .....	X	.....	.....
Mr. McCrery .....		X	.....	Mr. Levin .....	X	.....	.....
Mr. Hancock .....		X	.....	Mr. Cardin .....	X	.....	.....
Mr. Camp .....		X	.....	Mr. McDermott .....	X	.....	.....
Mr. Ramstad .....		X	.....	Mr. Kleczka .....	X	.....	.....
Mr. Zimmer .....		X	.....	Mr. Lewis .....	X	.....	.....

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Nussle .....		X	.....	Mr. Payne .....	X	.....	.....
Mr. Johnson .....		X	.....	Mr. Neal .....	X	.....	.....
Ms. Dunn .....		X	.....	Mr. McNulty .....	X	.....	.....
Mr. Collins .....		X	.....				
Mr. Portman .....		X	.....				
Mr. Hayes .....			.....				
Mr. Laughlin .....		X	.....				
Mr. English .....		X	.....				
Mr. Ensign .....		X	.....				
Mr. Christensen .....		X	.....				

An amendment by Mrs. Kennelly to Title I to increase the maintenance of effort requirement was defeated by a rollcall vote of 16 yeas to 20 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....		X	.....	Mr. Gibbons .....	X	.....	.....
Mr. Crane .....			.....	Mr. Rangel .....	X	.....	.....
Mr. Thomas .....		X	.....	Mr. Stark .....	X	.....	.....
Mr. Shaw .....		X	.....	Mr. Jacobs .....	X	.....	.....
Mrs. Johnson .....	X	.....	.....	Mr. Ford .....	X	.....	.....
Mr. Bunning .....		X	.....	Mr. Matsui .....	X	.....	.....
Mr. Houghton .....		X	.....	Mrs. Kennelly .....	X	.....	.....
Mr. Herger .....			X	Mr. Coyne .....	X	.....	.....
Mr. McCrery .....		X	.....	Mr. Levin .....	X	.....	.....
Mr. Hancock .....		X	.....	Mr. Cardin .....	X	.....	.....
Mr. Camp .....			X	Mr. McDermott .....	X	.....	.....
Mr. Ramstad .....		X	.....	Mr. Kleczka .....	X	.....	.....
Mr. Zimmer .....		X	.....	Mr. Lewis .....	X	.....	.....
Mr. Nussle .....		X	.....	Mr. Payne .....	X	.....	.....
Mr. Johnson .....		X	.....	Mr. Neal .....	X	.....	.....
Ms. Dunn .....		X	.....	Mr. McNulty .....	X	.....	.....
Mr. Collins .....		X	.....				
Mr. Portman .....			.....				
Mr. Hayes .....			.....				
Mr. Laughlin .....		X	.....				
Mr. English .....		X	.....				
Mr. Ensign .....		X	.....				
Mr. Christensen .....		X	.....				

A substitute amendment by Mr. Cardin was defeated by a rollcall vote of 11 yeas to 24 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....		X	.....	Mr. Gibbons .....		.....	.....
Mr. Crane .....		X	.....	Mr. Rangel .....	X	.....	.....
Mr. Thomas .....		X	.....	Mr. Stark .....		X	.....
Mr. Shaw .....		X	.....	Mr. Jacobs .....	X	.....	.....
Mrs. Johnson .....		X	.....	Mr. Ford .....	X	.....	.....
Mr. Bunning .....		X	.....	Mr. Matsui .....	X	.....	.....
Mr. Houghton .....		X	.....	Mrs. Kennelly .....	X	.....	.....
Mr. Herger .....		X	.....	Mr. Coyne .....	X	.....	.....
Mr. McCrery .....		X	.....	Mr. Levin .....	X	.....	.....
Mr. Hancock .....		X	.....	Mr. Cardin .....	X	.....	.....
Mr. Camp .....		X	.....	Mr. McDermott .....		.....	.....
Mr. Ramstad .....		X	.....	Mr. Kleczka .....		X	.....
Mr. Zimmer .....		X	.....	Mr. Lewis .....	X	.....	.....
Mr. Nussle .....		X	.....	Mr. Payne .....		X	.....
Mr. Johnson .....			.....	Mr. Neal .....	X	.....	.....
Ms. Dunn .....		X	.....	Mr. McNulty .....	X	.....	.....
Mr. Collins .....		X	.....				
Mr. Portman .....		X	.....				

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Hayes .....	.....	.....	.....				
Mr. Laughlin .....	.....	X	.....				
Mr. English .....	.....	X	.....				
Mr. Ensign .....	.....	X	.....				
Mr. Christensen .....	.....	X	.....				

### CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act of 1974. [See consolidated Congressional Budget Office Cost Estimate on page 1940.]

### CHANGES IN EXISTING LAW MADE BY TITLE IV OF THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

\* \* \* \* \*

### SOCIAL SECURITY ACT

\* \* \* \* \*

### OLD-AGE AND SURVIVORS INSURANCE BENEFITS PAYMENTS

#### Old-age Insurance Benefits

SEC. 202. (a) \* \* \*

\* \* \* \* \*

### Limitation on Payments to Prisoners and Certain Other Inmates of Publicly Funded Institutions

(x)(1)(A) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month **[during]** *throughout* which such individual—

(i) is confined in a jail, prison, or other penal institution or correctional facility **[pursuant to his conviction of an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed)],** or

(ii) is confined by court order in an institution at public expense in connection with—

(I) a verdict or finding that the individual is guilty but insane, with respect to **[an offense punishable by imprisonment for more than 1 year]** *a criminal offense,*

\* \* \* \* \*



(3)(A) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Commissioner of Social Security, upon written request, the name and social security account number of any individual who is confined as described in paragraph (1) if the confinement is under the jurisdiction of such agency and the Commissioner of Social Security requires such information to carry out the provisions of this section.

(B)(i) *The Commissioner shall enter into a contract, with any interested State or local institution described in clause (i) or (ii) of paragraph (1)(A) the primary purpose of which is to confine individuals as described in paragraph (1)(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 individuals confined in 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 individual who is entitled to a benefit under this title for the month preceding the first month throughout which such individual is confined in such institution as described in paragraph (1)(A), an amount not to exceed \$400 if the institution furnishes the information described in subclause (I) to the Commissioner within 30 days after the date such individual's confinement in such institution begins, 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 contract entered into under clause (i) or to information exchanged pursuant to such contract.*

\* \* \* \* \*

#### OVERPAYMENTS AND UNDERPAYMENTS

SEC. 204. (a) \* \* \*

\* \* \* \* \*

*(g) For payments which are adjusted or withheld to recover an overpayment of supplemental security income benefits paid under title XVI (including State supplementary payments which were paid under an agreement pursuant to section 1616(a) or section 212(b) of Public Law 93-66), see section 1146.*

\* \* \* \* \*

#### EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) \* \* \*

\* \* \* \* \*

(c)(1) For the purposes of this subsection—

(A) \* \* \*

\* \* \* \* \*

(2)(A) On the basis of information obtained by or submitted to the Commissioner of Social Security, and after such verification thereof as he deems necessary, the Commissioner of Social Security, shall establish and maintain records of the amounts of wages paid to, and the amounts of self-employment income derived by, each individual and of the periods in which such wages were paid and such income was derived and, upon request, shall inform any individual or his survivor, or the legal representative of such individual or his estate, of the amounts of wages and self-employment income of such individual and the periods during which such wages were paid and such income was derived, as shown by such records at the time of such request.

\* \* \* \* \*

(C)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and ~~may~~ *shall* require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Commissioner of Social Security.

(ii) In the administration of any law involving the issuance of a birth certificate, each State shall require each parent to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than one such number) issued to the parent unless the State (in accordance with regulations prescribed by the Commissioner of Social Security) finds good cause for not requiring the furnishing of such number. *In the administration of any law involving the issuance of a marriage certificate or license, each State shall require each party named in the certificate or license to furnish to the State (or political subdivision thereof), or any State agency having administrative responsibility for the law involved, the social security number of the party.* The State shall make numbers furnished under this subclause available to the agency administering the State's plan under part D of title IV in accordance with Federal or State law and regulation. Such numbers shall not be recorded on the birth certificate or marriage certificate. A State shall not use any social security account number, obtained with respect to the issuance by the State of a birth certificate, for any purpose other than for the enforcement of child support orders in effect in the State, unless section 7(a) of the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of such number, by reason of the State having adopted, before January 1, 1975, a statute or regulation requiring such disclosure.

\* \* \* \* \*

(vi) For purposes of clause (i) of this subparagraph, an agency of a State (or political subdivision thereof) charged with the

administration of any general public assistance, driver's license, or motor vehicle registration law which did not use the social security account number for identification under a law or regulation adopted before January 1, 1975, **[may]** *shall* require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause (i) above and for the purpose of responding to requests for information from *an agency administering a program funded under part A of title IV or an agency operating pursuant to the provisions of part [A or D of title IV of this Act]* *D of such title.*

\* \* \* \* \*

(x) *An agency of a State (or a political subdivision thereof) charged with the administration of any law concerning the issuance or renewal of a license, certificate, permit, or other authorization to engage in a profession, an occupation, or a commercial activity shall require all applicants for issuance or renewal of the license, certificate, permit, or other authorization to provide the applicant's social security number to the agency for the purpose of administering such laws, and for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.*

(xi) *All divorce decrees, support orders, and paternity determinations issued, and all paternity acknowledgments made, in each State shall include the social security number of each party to the decree, order, determination, or acknowledgment in the records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.*

#### BENEFITS AS AGE 72 FOR CERTAIN UNINSURED INDIVIDUALS

##### Eligibility

SEC. 228. (a) \* \* \*

\* \* \* \* \*

##### Suspension for Months in Which Cash Payments Are Made Under Public Assistance

(d) The benefit to which any individual is entitled under this section for any month shall not be paid for such month if-

(1) such individual receives aid or assistance in the form of money payments in such month under a State plan approved under title I, X, XIV, or XVI, or *under a State program funded under part A of title IV, or*

\* \* \* \* \*

#### TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

\* \* \* \* \*

##### PROVISIONS OF STATE LAWS

SEC. 303. (a) \* \* \*

\* \* \* \* \*

(e)(1) The State agency charged with the administration of the State law—

(A) \* \* \*

\* \* \* \* \*

(5) *A State or local child support enforcement agency may disclose to any agent of the agency that is under contract with the agency to carry out the purposes described in paragraph (1)(B) wage information that is disclosed to an officer or employee of the agency under paragraph (1)(A). Any agent of a State or local child support agency that receives wage information under this paragraph shall comply with the safeguards established pursuant to paragraph (1)(B).*

[(h)(1) The State agency charged with the administration of the State law shall take such actions (in such manner as may be provided in the agreement between the Secretary of Health and Human Services and the Secretary of Labor under section 453(e)(3)) as may be necessary to enable the Secretary of Health and Human Services to obtain prompt access to any wage and unemployment compensation claims information (including any information that might be useful in locating an absent parent or such parent's employer) for use by the Secretary of Health and Human Services, for purposes of section 453, 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 requirement of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until such Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, such Secretary shall make no further certification to the Secretary of the Treasury with respect to such State.]

*(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.*

\* \* \* \* \*

#### TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

##### 【PART A—AID TO FAMILIES WITH DEPENDENT CHILDREN

##### 【APPROPRIATION

【SEC. 401. For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for aid and services to needy families with children.

##### 【STATE PLANS FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN

【SEC. 402. (a) A State plan for aid and services to needy families with children must—

【(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

【(2) provide for financial participation by the State;

【(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

[(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness;

[(5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

[(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

[(7) except as may be otherwise provided in paragraph (8) or (31) and section 415, provide that the State agency—

[(A) shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid;

[(B) shall determine ineligible for aid any family the combined value of whose resources (reduced by any obligations or debts with respect to such resources) exceeds \$1,000 or such lower amount as the State may determine, but not including as a resource for purposes of this subparagraph (i) a home owned and occupied by such child, relative, or other individual and so much of the family member's ownership interest in one automobile as does not exceed such amount as the Secretary may prescribe, (ii) under regulations prescribed by the Secretary, burial plots (one for each such child, relative, and other individual), and funeral agreements (iii) for such period or periods of time as the Secretary may prescribe, real property which the family is making a good-faith effort to dispose of, but any aid payable to the family for any such period shall be conditioned upon such disposal, and any payments of such aid for that period shall (at the time of the disposal) be considered overpayments to the extent that they would not have been made had the disposal occurred at the beginning of the period for which the payments of such aid were made, or (iv) for the month of receipt and the following month, any refund of Federal income taxes made to such family by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income credit), and any payment made to such family by an employer under section 3507 of such Code (relating to advance payment of earned income credit), or (iv) for the month of receipt and the following month, any refund of Federal income taxes

made to such family by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income credit), and any payment made to such family by an employer under section 3507 of such Code (relating to advance payment of earned income credit); and

[(C) may, in the case of a family claiming or receiving aid under this part for any month, take into consideration as income (to the extent the State determines appropriate, as specified in such plan, and notwithstanding any other provision of law)—

[(i) an amount not to exceed the value of the family's monthly allotment of food stamp coupons, to the extent such value duplicates the amount for food included in the maximum amount that would be payable under the State plan to a family of the same composition with no other income; and

[(ii) an amount not to exceed the value of any rent or housing subsidy provided to such family, to the extent such value duplicates the amount for housing included in the maximum amount that would be payable under the State plan to a family of the same composition with no other income;

[(8)(A) provide that, with respect to any month, in making the determination under paragraph (7), the State agency—

[(i) shall disregard all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or a part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment;

[(ii) shall disregard from the earned income of any child or relative applying for or receiving aid to families with dependent children, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first \$90 of the total of such earned income for such month;

[(iii) after applying the other clauses of this subparagraph, shall disregard from the earned income of any child, relative, or other individual specified in clause (ii), an amount equal to expenditures for care in such month for a dependent child, or an incapacitated individual living in the same home as the dependent child, receiving aid to families with dependent children and requiring such care for such month, to the extent that such amount (for each such dependent child or incapacitated individual) does not exceed \$175 (or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in full-time employment or not employed throughout the month), or, in the case such child is under age 2, \$200

[(iv) shall disregard from the earned income of any child or relative receiving aid to families with dependent

children, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, an amount equal to (I) the first \$30 of the total of such earned income not disregarded under any other clause of this subparagraph plus (II) one-third of the remainder thereof

[(v) may disregard the income of any dependent child applying for or receiving aid to families with dependent children which is derived from a program carried out under the Job Training Partnership Act (as originally enacted), but only in such amounts, and for such period of time (not to exceed six months with respect to earned income) as the Secretary may provide in regulations;

[(vi) shall disregard the first \$50 of any child support payments for such month received in that month, and the first \$50 of child support payments for each prior month received in that month if such payments were made by the absent parent in the month when due, with respect to the dependent child or children in any family applying for or receiving aid to families with dependent children (including support payments collected and paid to the family under section 457(b));

[(vii) may disregard all or any part of the earned income of a dependent child who is a full-time student and who is applying for aid to families with dependent children, but only if the earned income of such child is excluded for such month in determining the family's total income under paragraph (18); and

[(viii) shall disregard any refund of Federal income taxes made to a family receiving aid to families with dependent children by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) and any payment made to such a family by an employer under section 3507 of such Code (relating to advance payment of earned income credit); and

[(B) provide that (with respect to any month) the State agency—

[(i) shall not disregard, under clause (ii), (iii), or (iv) of subparagraph (A), any earned income of any one of the persons specified in subparagraph (A)(ii) if such person—

[(I) terminated his employment or reduced his earned income without good cause within such period (of not less than thirty days) preceding such month as may be prescribed by the Secretary;

[(II) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by the employer, to be a bona fide offer of employment; or



[(III) failed without good cause to make a timely report (as prescribed by the State plan pursuant to paragraph (14)) to the State agency of earned income received in such month; and

[(ii)(I) shall not disregard—

[(a) under subclause (II) of subparagraph (A)(iv), in a case where such subclause has already been applied to the income of the persons involved for four consecutive months while they were receiving aid under the plan, or

[(b) under subclause (I) of subparagraph (A)(iv), in a case where such subclause has already been applied to the income of the persons involved for twelve consecutive months while they were receiving aid under the plan,

any earned income of any of the persons specified in subparagraph (A)(ii), if, with respect to such month, the income of the persons so specified was in excess of their need, as determined by the State agency pursuant to paragraph (7) (without regard to subparagraph (A)(iv) of this paragraph), unless the persons received aid under the plan in one or more of the four months preceding such month; and

[(II) in the case of the earned income of a person with respect to whom subparagraph (A)(iv) has been applied for four consecutive months, shall not apply the provisions of subclause (II) of such subparagraph to any month after such month, or apply the provisions of subclause (I) of such subparagraph to any month after the eighth month following such month, for so long as he continues to receive aid under the plan, and shall not apply the provisions of either such subclause to any month thereafter until the expiration of an additional period of twelve consecutive months during which he is not a recipient of such aid; and

[(C) provide that in implementing this paragraph the term “earned income” shall mean gross earned income, prior to any deductions for taxes or for any other purposes;

(9) provide safeguards which restrict the use or disclosure of information concerning applicants or recipients to purposes directly connected with (A) the administration of the plan of the State approved under this part (including activities under part F), the plan or program of the State under part B, D, or E of this title or under title I, X, XIV, XVI, XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity, and (E) reporting and providing infor-

mation pursuant to paragraph (16) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; but such safeguards shall not prevent the State agency or the local agency responsible for the administration of the State plan in the locality (whether or not the State has enacted legislation allowing public access to Federal welfare records) from furnishing a State or local law enforcement officer, upon his request, with the current address of any recipient if the officer furnishes the agency with such recipient's name and social security account number and satisfactorily demonstrates that such recipient is a fugitive felon, that the location or apprehension of such felon is within the officer's official duties, and that the request is made in the proper exercise of those duties;

[(10)(A) provide that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to families with dependent children shall, subject to paragraphs (25) and (26), be furnished with reasonable promptness to all eligible individuals; and

[(B) provide that an application for aid under the plan will be effective no earlier than the date such application is filed with the State agency or local agency responsible for the administration of the State plan, and the amount payable for the month in which the application becomes effective, if such application becomes effective after the first day of such month, shall bear the same ratio to the amount which would be payable if the application had been effective on the first day of such month as the number of days in the month including and following the effective date of the application bears to the total number of days in such month;

[(11) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency (established pursuant to part D of this title) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);

[(12) provide, effective October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act;

[(13) provide, at the option of the State and with respect to such category or categories as the State may select and identify in the State plan, that—

[(A) except as provided in subparagraph (B), the State agency (i) will determine a family's eligibility for aid for a month on the basis of the family's income, composition, resources, and other similar relevant circumstances during such month, and (ii) will determine the amount of such aid

on the basis of the income and other relevant circumstances in the first or, at the option of the State (but only where the Secretary determines it to be appropriate) second month preceding such month; and

[(B) in the case of the first month, or at the option of the State (but only where the Secretary determines it to be appropriate), the first and second months, in a period of consecutive months for which aid is payable, the State agency will determine the amount of aid on the basis of the family's income and other relevant circumstances in such first or second month;

[(14) at the option of the State and with respect to such category or categories as the State may select and identify in the plan, provide that—

[(A) the State agency will require each family to which the State provides (or, but for paragraph (22) or (32), would provide) aid to families with dependent children, as a condition to the continued receipt of such aid (or to continuing to be deemed to be a recipient of such aid), to report to the State agency monthly (or less frequently in the case of such categories of recipients as the State may select) on—

[(i) the income of the family, the composition of the family, and other relevant circumstances during the prior month; and

[(ii) the income and resources the family expects to receive, or any changes in circumstances affecting continued eligibility for, or amount of benefits, the family expects to occur, in that month or in future months; and

[(B) in addition to any action that may be appropriate based on other reports or information received by the State agency, the State agency will—

[(i) take prompt action to adjust the amount of assistance payable, as may be appropriate, on the basis of the information contained in the report (or upon the failure of the family to submit a timely report); and

[(ii) give the family an appropriate explanatory notice concurrent with any action taken under clause (i);

[(15) provide (A) for the development of a program, for each appropriate relative and dependent child receiving aid under the plan and for each appropriate individual (living in the same home as a relative and child receiving such aid) whose needs are taken into account in making the determination under paragraph (7), for preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life, and for implementing such program by assuring that in all appropriate cases (including minors who can be considered to be sexually active) family planning services are offered to them and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services, but acceptance of family planning services provided under the plan shall be voluntary on the part of such

members and individuals and shall not be a prerequisite to eligibility for or the receipt of any other service under the plan; and (B) to the extent that services provided under this paragraph are furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishment of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such services;

[(16) provide that the State agency will—

[(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

[(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;

[(17) provide that if a child or relative applying for or receiving aid to families with dependent children, or any other person whose need the State considers when determining the income of a family, receives in any month an amount of earned or unearned income which, together with all other income for that month not excluded under paragraph (8), exceeds the State's standard of need applicable to the family of which he is a member—

[(A) such amount of income shall be considered income to such individual in the month received, and the family of which such person is a member shall be ineligible for aid under the plan for the whole number of months that equals (i) the sum of such amount and all other income received in such month, not excluded under paragraph (8), divided by (ii) the standard of need applicable to such family, and

[(B) any income remaining (which amount is less than the applicable monthly standard) shall be treated as income received in the first month following the period of ineligibility specified in subparagraph (A);

except that the State may at its option recalculate the period of ineligibility otherwise determined under subparagraph (A) (but only with respect to the remaining months in such period) in any one or more of the following cases: (i) an event occurs which, had the family been receiving aid under the State plan for the month of the occurrence, would result in a change in the amount of aid payable for such month under the plan, or (ii) the income received has become unavailable to the members of the family for reasons that were beyond the control of such members, or (iii) the family incurs, becomes responsible for, and pays medical expenses (as allowed by the State) in a month of ineligibility determined under subparagraph (A) (which expenses may be considered as an offset against the amount of income received in the first month of such ineligibility);

[(18) provide that no family shall be eligible for aid under the plan for any month if, for that month, the total income of the family (other than payments under the plan), without application of paragraph (8), other than paragraph (8)(A)(v) or 8(A)(viii), exceeds 185 percent of the State's standard of need for a family of the same composition, except that in determining the total income of the family the State may exclude any earned income of a dependent child who is a full-time student, in such amounts and for such period of time (not to exceed 6 months) as the State may determine;

[(19) provide—

[(A) that the State has in effect and operation a job opportunities and basic skills training program which meets the requirements of part F;

[(B) that—

[(i) the State will (except as otherwise provided in this paragraph or part F), to the extent that the program is available in the political subdivision involved and State resources otherwise permit—

[(I) require all recipients of aid to families with dependent children in such subdivision with respect to whom the State guarantees child care in accordance with section 402(g) to participate in the program; and

[(II) allow applicants for and recipients of aid to families with dependent children (and individuals who would be recipients of such aid if the State had not exercised the option under section 407(b)(2)(B)(i)) who are not required under subclause (I) to participate in the program to do so on a voluntary basis;

[(ii) in determining the priority of participation by individuals from among those groups described in clauses (i), (ii), (iii), and (iv) of section 403(1)(2)(B), the State will give first consideration to applicants for or recipients of aid to families with dependent children within any such group who volunteer to participate in the program;

[(iii) if an exempt participant drops out of the program without good cause after having commenced participation in the program, he or she shall thereafter not be given priority so long as other individuals are actively seeking to participate; and

[(iv) the State need not require or allow participation of an individual in the program if as a result of such participation the amount payable to the State for quarters in a fiscal year with respect to the program would be reduced pursuant to section 403(1)(2);

[(C) that an individual may not be required to participate in the program if such individual—

[(i) is ill, incapacitated, or of advanced age;

[(ii) is needed in the home because of the illness or incapacity of another member of the household;

[(iii) subject to subparagraph (D)—

[(I) is the parent or other relative of a child under 3 years of age (or, if so provided in the State plan, under any age that is less than 3 years but not less than one year) who is personally providing care for the child, or

[(II) is the parent or other relative personally providing care for a child under 6 years of age, unless the State assures that child care in accordance with section 402(g) will be guaranteed and that participation in the program by the parent or relative will not be required for more than 20 hours a week;

[(iv) works 30 or more hours a week;

[(v) is a child who is under age 16 or attends, full-time, an elementary, secondary, or vocational (or technical) school;

[(vi) is pregnant if it has been medically verified that the child is expected to be born in the month in which such participation would otherwise be required or within the 6-month period immediately following such month; or

[(i) resides in an area of the State where the program is not available;

[(D) that, in the case of a family eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner, subparagraph (C)(iii) shall apply only to one parent, except that, in the case of such a family, the State may at its option make such subparagraph inapplicable to both of the parents (and require their participation in the program) if child care in accordance with section 402(g) is guaranteed with respect to the family;

[(E) that—

[(i) to the extent that the program is available in the political subdivision involved and State resources otherwise permit, in the case of a custodial parent who has not attained 20 years of age, has not successfully completed a high-school education (or its equivalent), and is required to participate in the program (including an individual who would otherwise be exempt from participation in the program solely by reason of subparagraph (C)(iii)), the State agency (subject to clause (ii)) will require such parent to participate in an educational activity; and

[(ii) the State agency may—

[(I) require a parent described in clause (i) (notwithstanding the part-time requirement in subparagraph (C)(iii)(II)) to participate in educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis,

[(II) establish criteria in accordance with regulations of the Secretary under which custodial

parents described in clause (i) who have not attained 18 years of age may be exempted from the school attendance requirement under such clause, or

[(III) require a parent described in clause (i) who is age 18 or 19 to participate in training or work activities (in lieu of the educational activities under such clause) if such parent fails to make good progress in successfully completing such educational activities or if it is determined (prior to any assignment of the individual to such educational activities) pursuant to an educational assessment that participation in such educational activities is inappropriate for such parent;

[(F) that—

[(i) if the parent or other caretaker relative or any dependent child in the family is attending (in good standing) an institution of higher education (as defined in section 481(a) of the Higher Education Act of 1965), or a school or course of vocational or technical training (not less than half time) consistent with the individual's employment goals, and is making satisfactory progress in such institution, school, or course, at the time he or she would otherwise commence participation in the program under this section, such attendance may constitute satisfactory participation in the program (by that caretaker or child) so long as it continues and is consistent with such goals;

[(ii) any other activities in which an individual described in clause (i) participates may not be permitted to interfere with the school or training described in that clause;

[(iii) the costs of such school or training shall not constitute federally reimbursable expenses for purposes of section 403; and

[(iv) the costs of day care, transportation, and other services which are necessary (as determined by the State agency) for such attendance in accordance with section 402(g) are eligible for Federal reimbursement;

[(G) that—

[(i) if an individual who is required by the provisions of this paragraph to participate in the program or who is so required by reason of the State's having exercised the option under subparagraph (D) fails without good cause to participate in the program or refuses without good cause to accept employment in which such individual is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined to be a bona fide offer of employment—

[(I) the needs of such individual (whether or not section 407 applies) shall not be taken into ac-

count in making the determination with respect to his or her family under paragraph (7) of this subsection, and if such individual is a parent or other caretaker relative, payments of aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (D) thereof) will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made; and

[(II) if such individual is a member of a family which is eligible for aid to families with dependent children by reason of section 407, and his or her spouse is not participating in the program, the needs of such spouse shall also not be taken into account in making such determination;

[(ii) any sanction described in clause (i) shall continue—

[(I) in the case of the individual's first failure to comply, until the failure to comply ceases;

[(II) in the case of the individual's second failure to comply, until the failure to comply ceases or 3 months (whichever is longer); and

[(III) in the case of any subsequent failure to comply, until the failure to comply ceases or 6 months (whichever is longer);

[(iii) the State will promptly remind any individual whose failure to comply has continued for 3 months, in writing, of the individual's option to end the sanction by terminating such failure; and

[(iv) no sanction shall be imposed under this subparagraph—

[(I) on the basis of the refusal of an individual described in subparagraph (C)(iii)(II) to accept employment, if the employment would require such individual to work more than 20 hours a week, or

[(II) on the basis of the refusal of an individual to participate in the program or accept employment, if child care (or day care for any incapacitated individual living in the same home as a dependent child) is necessary for an individual to participate in the program or accept employment, such care is not available, and the State agency fails to provide such care; and

[(H) the State agency may require a participant in the program to accept a job only if such agency assures that the family of such participant will experience no net loss of cash income resulting from acceptance of the job; and any costs incurred by the State agency as a result of this subparagraph shall be treated as expenditures with respect to which section 403(a)(1) or 403(a)(2) applies;



[(20) provide that the State has in effect a State plan for foster care and adoption assistance approved under part E of this title;

[(21) provide—

[(A) that, for purposes of this part, participation in a strike shall not constitute good cause to leave, or to refuse to seek or accept employment; and

[(B)(i) that aid to families with dependent children is not payable to a family for any month in which any caretaker relative with whom the child is living is, on the last day of such month, participating in a strike, and (ii) that no individual's needs shall be included in determining the amount of aid payable for any month to a family under the plan if, on the last day of such month, such individual is participating in a strike;

[(22) provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of aid under the State plan, and, in the case of—

[(A) an overpayment to an individual who is a current recipient of such aid (including a current recipient whose overpayment occurred during a prior period of eligibility), recovery will be made by repayment by the individual or by reducing the amount of any future aid payable to the family of which he is a member, except that such recovery shall not result in the reduction of aid payable for any month, such that the aid, when added to such family's liquid resources and to its income (without application of paragraph (8)), is less than 90 percent of the amount payable under the State plan to a family of the same composition with no other income (and, in the case of an individual to whom no payment is made for a month solely by reason of recovery of an overpayment, such individual shall be deemed to be a recipient of aid for such month);

[(B) an overpayment to any individual who is no longer receiving aid under the plan, recovery shall be made by appropriate action under State law against the income or resources of the individual or the family; and

[(C) an underpayment, the corrective payment shall be disregarded in determining the income of the family, and shall be disregarded in determining its resources in the month the corrective payment is made and in the following month;

except that no recovery need be attempted or carried out under subparagraph (B) in any case, other than a case involving fraud on the part of the recipient, where (as determined by the State agency in accordance with criteria for determining cost-effectiveness, and with dollar limitations, which shall be prescribed by the Secretary in regulations) the cost of recovery would equal or exceed the amount of the overpayment involved;

[(23) provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State

imposes on the amount of aid paid to families will have been proportionately adjusted;

[(24) provide that if an individual is receiving benefits under title XVI or his costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made to his or her minor parent as provided in section 475(4)(B), then, for the period for which such benefits are received or such costs are so covered, such individual shall not be regarded as a member of a family for purposes of determining the amount of the benefits of the family under this title and his income and resources shall not be counted as income and resources of a family under this title;

[(25) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act;

[(26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

[(A) to assign the State any rights to support from any other person such applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed;

[(B) to cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child, unless (in either case) such applicant or recipient is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed; and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of subparagraphs (A) and (B) of this paragraph, any aid for which such child is eligible will be provided in the form of protective payments as described in section 406(b)(2) (without regard to clauses (A) through (D) of such section) unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made; 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 State's plan for medical assistance under title XIX, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; but the State shall not be subject to any financial penalty in the administration or

enforcement of this subparagraph as a result of any monitoring, quality control, or auditing requirements;

[(27) provide that the State has in effect a plan approved under part D and operates a child support program in substantial compliance with such plan;

[(28) provide that, in determining the amount of aid to which an eligible family is entitled, any portion of the amounts collected in any particular month as child support pursuant to a plan approved under part D, and retained by the State under section 457, which (under the State plan approved under this part as in effect both during July 1975 and during that particular month) would not have caused a reduction in the amount of aid paid to the family if such amounts had been paid directly to the family, shall be added to the amount of aid otherwise payable to such family under the State plan approved under this part;

[(30) at the option of the State, provide for the establishment and operation, in accordance with an (initial and annually updated) advance automated data processing planning document approved under subsection (e), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including but not limited to (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including postal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra-and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system;

[(31) provide that, in making the determination for any month under paragraph (7), the State agency shall take into consideration so much of the income of the dependent child's stepparent living in the same home as such child as exceeds the sum of (A) the first \$90 of the total of such stepparent's earned income for such month, (B) the State's standard of need under such plan for a family of the same composition as the stepparent and those other individuals living in the same household as the dependent child and claimed by such step-

parent as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making the determination under paragraph (7), (C) amounts paid by the stepparent to individuals not living in such household and claimed by him as dependents for purposes of determining his Federal personal income tax liability, and (D) payments by such stepparent of alimony or child support with respect to individuals not living in such household;

[(32) provide that no payment of aid shall be made under the plan for any month if the amount of such payment, as determined in accordance with the applicable provisions of the plan and of this part, would be less than \$10, but an individual with respect to whom a payment of aid under the plan is denied solely by reason of this paragraph is deemed to be a recipient of aid but shall not be eligible to participate in a community work experience program;

[(33) provide that in order for any individual to be considered a dependent child, a caretaker relative whose needs are to be taken into account in making the determination under paragraph (7), or any other person whose needs should be taken into account in making such a determination with respect to the child or relative, such individual must be either (A) a citizen, or (B) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act);

[(34) provide that both the standard of need applied to a family and the amount of aid determined to be payable, when not a whole dollar amount, shall be rounded to the next lower whole dollar amount;

[(36) provide, at the option of the State, that in making the determination for any month under paragraph (7), the State agency shall not include as income any support or maintenance assistance furnished to or on behalf of the family which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support and maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which is (A) assistance furnished in kind by a private nonprofit agency, or (B) assistance furnished by a supplier of home heating oil or gas, by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy;

[(37) provide that if any family becomes ineligible to receive aid to families with dependent children because of hours of or income from employment of the caretaker relative or because of paragraph (8)(B)(ii)(II), having received such aid in at least 3 of the 6 months immediately preceding the month in

which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under title XIX for an extended period or periods as provided in section 1925, and that the family will be appropriately notified of such extension (in the State agency's notice to the family of the termination of its eligibility for such aid) as required by section 1925(a)(2);

[(38) provide that in making the determination under paragraph (7) with respect to a dependent child and applying paragraph (8), the State agency shall (except as otherwise provided in this part) include—

[(A) any parent of such child, and

[(B) any brother or sister of such child, if such brother or sister meets the conditions described in clauses (1) and (2) of section 406(a) or in section 407(a), if such parent, brother, or sister is living in the same home as the dependent child, and any income of or available for such parent, brother, or sister shall be included in making such determination and applying such paragraph with respect to the family (notwithstanding section 205(j), in the case of benefits provided under title II);

[(39) provide that in making the determination under paragraph (7) with respect to a dependent child whose parent is under the age of 18, the State agency shall (except as otherwise provided in this part) include any income of such minor's own parents who are living in the same home as such minor and dependent child, to the same extent that income of a step-parent is included under paragraph (31);

[(40) provide, if the State has elected to establish and operate a fraud control program under section 416, that the State will submit to the Secretary (with such revisions as may from time to time be necessary) a description of and budget for such program, and will operate such program in full compliance with that section;

[(41) provide that aid to families with dependent children will be provided under the plan with respect to dependent children of unemployed parents in accordance with section 407;

[(42) provide that if, under section 407(b)(2)(B)(i), the State limits the number of months for which a family may receive aid to families with dependent children, the State shall provide medical assistance to all members of the family under the State's plan approved under title XIX, without time limitation;

[(43) at the option of the State, provide that—

[(A) subject to subparagraph (B), in the case of any individual who is under the age of 18 and has never married, and who has a dependent child in his or her care (or is pregnant and is eligible for aid to families with dependent children under the State plan)—

[(i) such individual may receive aid to families with dependent children under the plan for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence

maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home, or reside in a foster home, maternity home, or other adult-supervised supportive living arrangement; and

[(ii) such aid (where possible) shall be provided to the parent, legal guardian, or other adult relative on behalf of such individual and child; and

[(B) subparagraph (A) does not apply in the case where—

[(i) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

[(ii) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

[(iii) the State agency determines that the physical or emotional health or safety of such individual or such dependent child would be jeopardized if such individual and such dependent child lived in the same residence with such individual's own parent or legal guardian;

[(iv) such individual lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of any such dependent child or the individual having made application for aid to families with dependent children under the plan; or

[(v) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that there is good cause for waiving such subparagraph;

[(44) provide that the State agency shall—

[(A) be responsible for assuring that the benefits and services under the programs under this part, part D, and part F are furnished in an integrated manner, and

[(B) consistent with the provisions of this title, ensure that all applicants for and recipients of aid to families with dependent children are encouraged, assisted, and required to cooperate in the establishment of paternity and the enforcement of child support obligations, and are notified of the paternity establishment and child support services for which they may be eligible; and

[(45) provide (in accordance with regulations issued by the Secretary) for appropriate measures to detect fraudulent applications for aid to families with dependent children prior to the establishment of eligibility for such aid.

The Secretary may waive any of the requirements imposed under or in connection with paragraphs (13) and (14) of this subsection to the extent necessary to make such requirements compatible with the corresponding reporting and budgeting requirements by the Food Stamp Act of 1977.

[(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for aid

to families with dependent children, a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

[(c) The Secretary shall, on the basis of his review of the reports received from the States under paragraph (15) of subsection (a), compile such data as he believes necessary and from time to time publish his findings as to the effectiveness of the programs developed and administered by the States under such paragraph. The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the programs developed and administered by each State under such paragraph (15).

[(e)(1) The Secretary shall not approve the initial and annually updated advance automated data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

[(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

[(B) contains a description of the proposed statewide management system, including a description of information flows, input data, and output reports and uses,

[(C) sets forth the security and interface requirements to be employed in such statewide management system,

[(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

[(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

[(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

[(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

[(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

[(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(B) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automated data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

[(C) If the Secretary determines that such a system has not been implemented by the State by the date specified for implementation in the State's advance automated data processing planning document, then the Secretary shall reduce payments to such State, in accordance with section 403(b), in an amount equal to 40 percent of the expenditures referred to in section 403(a)(3)(B) with respect to which payments were made to the State under section 403(a)(3)(B). The Secretary may extend the deadline for implementation if the State demonstrates to the satisfaction of the Secretary that the State cannot implement such system by the date specified in such planning document due to circumstances beyond the State's control.

[(f)(1) For temporary disqualification of certain newly legalized aliens from receiving aid to families with dependent children, see subsection (h) of section 245A of the Immigration and Nationality Act, subsection (f) of section 210 of such Act, and subsection (d)(7) of section 210A of such Act. (2) In any case where an alien disqualified from receiving aid under such subsection (h), (f), or (d)(7) is the parent of a child who is not so disqualified and who (without any adjustment of status under such section 245A, 210, or 210A) is considered a dependent child under subsection (a)(33), or is the brother or sister of such a child, subsection (a)(38) shall not apply, and the needs of such alien shall not be taken into account in making the determination under subsection (a)(7) with respect to such child, but the income of such alien (if he or she is the parent of such child) shall be included in making such determination to the same extent that income of a stepparent is included under subsection (a)(31).

[(g)(1)(A)(i) Each State agency must guarantee child care in accordance with subparagraph (B)—

[(I) for each family with a dependent child requiring such care, to the extent that such care is determined by the State agency to be necessary for an individual in the family to accept employment or remain employed; and

[(II) for each individual participating in an education and training activity (including participation in a program that meets the requirements of subsection (a)(19) and part F) if the State agency approves the activity and determines that the individual is satisfactorily participating in the activity.

[(ii) Each State agency must guarantee child care, subject to the limitations described in this section, to the extent that such care is determined by the State agency to be necessary for an individual's employment in any case where a family has ceased to receive aid to families with dependent children as a result of in-



creased hours of, or increased income from, such employment or by reason of subsection (a)(8)(B)(ii)(II).

[(iii) A family shall only be eligible for child care provided under clause (ii) for a period of 12 months after the last month for which the family received aid to families with dependent children under this part.

[(iv) A family shall not be eligible for child care provided under clause (ii) unless the family received aid to families with dependent children in at least 3 of the 6 months immediately preceding the month in which the family became ineligible for such aid.

[(v) A family shall not be eligible for child care provided under clause (ii) unless the family includes a child who is (or, if needy, would be) a dependent child.

[(vi) A family shall not be eligible for child care provided under clause (ii) for any month beginning after the caretaker relative who is a member of the family has—

[(I) without good cause, terminated his or her employment; or

[(II) refused to cooperate with the State in establishing and enforcing his or her child support obligations, without good cause as determined by the State agency in accordance with standards prescribed by the Secretary which shall take into consideration the best interests of the child for whom child care is to be provided.

[(vii) A family shall contribute to child care provided under clause (ii) in accordance with a sliding scale formula which shall be established by the State agency based on the family's ability to pay.

[(B) The State agency may guarantee child care by—

[(i) providing such care directly;

[(ii) arranging the care through providers by use of purchase of service contracts, or vouchers;

[(iii) providing cash or vouchers in advance to the caretaker relative in the family;

[(iv) reimbursing the caretaker relative in the family; or (v) adopting such other arrangements as the agency deems appropriate.

When the State agency arranges for child care, the agency shall take into account the individual needs of the child.

[(C)(i) Subject to clause (ii), the State agency shall make payment for the cost of child care provided with respect to a family in an amount that is the lesser of—

[(I) the actual cost of such care; and

[(II) the dollar amount of the child care disregard for which the family is otherwise eligible under subsection (a)(8)(A)(iii), or (if higher) an amount established by the State.

[(ii) The State agency may not reimburse the cost of child care provided with respect to a family in an amount that is greater than the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary).

[(D) The State may not make any change in its method of reimbursing child care costs which has the effect of disadvantaging families receiving aid under the State plan on the date of the enactment of this section by reducing their income or otherwise.

[(E) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this paragraph—

[(i) shall not be treated as income for purposes of any other Federal or federally-assisted program that bases eligibility for or the amount of benefits upon need, and

[(ii) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

[(2) In the case of any individual participating in the program under part F, each State agency (in addition to guaranteeing child care under paragraph (1)) shall provide payment or reimbursement for such transportation and other work-related expenses (including other work-related supportive services), as the State determines are necessary to enable such individual to participate in such program.

[(3)(A)(i) In the case of amounts expended for child care pursuant to paragraph (1)(A) by any State to which section 1108 does not apply, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1905(b)).

[(ii) In the case of amounts expended for child care pursuant to paragraph (1)(A)(ii) (relating to the provision of child care for certain families which cease to receive aid under this part) by any State to which section 1108 applies, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1118).

[(B) In the case of any amounts expended by the State agency for child care under this subsection, only such amounts as are within such limits as the State may prescribe (subject to the limitations of paragraph (1)(C)) shall be treated as amounts for which payment may be made to a State under this part and they may be so treated only to the extent that—

[(i) such amounts do not exceed the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary);

[(ii) the child care involved meets applicable standards of State and local law; and (iii) in the case of child care, the entity providing such care allows parental access.

[(4) The State must establish procedures to ensure that center-based child care will be subject to State and local requirements designed to ensure basic health and safety, including fire safety, protections. The State must also endeavor to develop guidelines for family day care. The State must provide the Secretary with a description of such State and local requirements and guidelines.

[(5) By October 1, 1992, the Secretary shall report to the Congress on the nature and content of State and local standards for health and safety.

[(6)(A) The Secretary shall make grants to States to improve their child care licensing and registration requirements and procedures, to enforce standards with respect to child care provided to children under this part, and to provide for the training of child care providers.

[(B) Subject to subparagraph (C), the Secretary shall make grants to each State under subparagraph (A) in proportion to the number of children in the State receiving aid under the State plan approved under subsection (a).

[(C) The Secretary may not make grants to a State under subparagraph (A) unless the State provides matching funds in an amount that is not less than 10 percent of the amount of the grant.

[(D) For grants under this paragraph, there is authorized to be appropriated to the Secretary \$13,000,000 for each of the fiscal years 1990 and 1991, and \$50,000,000 for each of fiscal years 1992, 1993, and 1994.

[(E) Each State to which the Secretary makes a grant under this paragraph shall expend not less than 50 percent of the amount of the grant to provide for the training of child care providers.

[(7) Activities under this subsection and subsection (i) shall be coordinated in each State with existing early childhood education programs in that State, including Head Start programs, preschool programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981, and school and nonprofit child care programs (including community-based organizations receiving funds designated for preschool programs for handicapped children).

[(h)(1) Each State shall reevaluate the need standard and payment standard under its plan at least once every 3 years, in accordance with a schedule established by the Secretary, and report the results of the reevaluation to the Secretary and the public at such time and in such form and manner as the Secretary may require.

[(2) The report required by paragraph (1) shall include a statement of—

[(A) the manner in which the need standard of the State is determined,

[(B) the relationship between the need standard and the payment standard (expressed as a percentage or in any other manner determined by the Secretary to be appropriate), and

[(C) any changes in the need standard or the payment standard in the preceding 3-year period.

[(3) The Secretary shall report promptly to the Congress the results of the reevaluations required by paragraph (1).

[(i)(1) Each State agency may, to the extent that it determines that resources are available, provide child care in accordance with paragraph (2) to any low income family that the State determines—

[(A) is not receiving aid under the State plan approved under this part;

[(B) needs such care in order to work; and

[(C) would be at risk of becoming eligible for aid under the State plan approved under this part if such care were not provided.

[(2) The State agency may provide child care pursuant to paragraph (1) by—

[(A) providing such care directly;

[(B) arranging such care through providers by use of purchase of service contracts or vouchers;

[(C) providing cash or vouchers in advance to the family;

[(D) reimbursing the family; or(E) adopting such other arrangements as the agency deems appropriate.

[(3)(A) A family provided with child care under paragraph (1) shall contribute to such care in accordance with a sliding scale formula established by the State agency based on the family's ability to pay.

[(B) The State agency shall make payment for the cost of child care provided under paragraph (1) with respect to a family in an amount that is the lesser of—

[(i) the actual cost of such care; and

[(ii) the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary).

[(4) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this subsection—

[(A) shall not be treated as income or as a deductible expense for purposes of any other Federal or federally assisted program that bases eligibility for or amount of benefits upon need; and

[(B) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

[(5) Amounts expended by the State agency for child care under paragraph (1) shall be treated as amounts for which payment may be made to a State under section 403(n) only to the extent that—

[(A) such amounts are paid in accordance with paragraph (3)(B);

[(B) the care involved meets applicable standards of State and local law;

[(C) the provider of the care—

[(i) in the case of a provider who is not an individual that provides such care solely to members of the family of the individual, is licensed, regulated, or registered by the State or locality in which the care is provided; and

[(ii) allows parental access; and(D) such amounts are not used to supplant any other Federal or State funds used for child care services.

[(6)(A)(i) Each State shall prepare reports annually, beginning with fiscal year 1993, on the activities of the State carried out with funds made available under section 403(n).

[(ii) The State shall make available for public inspection within the State copies of each report required by this paragraph, shall transmit a copy of each such report to the Secretary, and shall provide a copy of each such report, on request, to any interested public agency.

[(iii) The Secretary shall annually compile, and submit to the Congress, the State reports transmitted to the Secretary pursuant to clause (ii).

[(B) Each report prepared and transmitted by a State under subparagraph (A) shall set forth with respect to child care services provided under this subsection—

[(i) showing separately for center-based child care services, group home child care services, family child care services, and

relative care services, the number of children who received such services and the average cost of such services;

[(ii) the criteria applied in determining eligibility or priority for receiving services, and sliding fee schedules;

[(iii) the child care licensing and regulatory (including registration) requirements in effect in the State with respect to each type of service specified in clause (i); and

[(iv) the enforcement policies and practices in effect in the State which apply to licensed and regulated child care providers (including providers required to register).

[(C) Within 12 months after the date of the enactment of this subsection, the Secretary shall establish uniform reporting requirements for use by the States in preparing the information required by this paragraph, and make such other provision as may be necessary or appropriate to ensure that compliance with this subsection will not be unduly burdensome on the States.

[(D) Not later than July 1, 1992, the Secretary shall issue a report on the implementation of this subsection, based on such information as has been made available to the Secretary by the States.

#### [(PAYMENT TO STATES

[(SEC. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

[(1) in the case of any State other than Puerto Rico, the Virgin Islands, Guam, and American Samoa, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan—

[(A) five-sixths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$18 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number, for purposes of this subsection, means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of individuals, not counted under clause (i), with respect to whom payments described in section 406(b)(2) are made in such month and included as expenditures for purposes of this paragraph or paragraph (2)); plus

[(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (i) the product of \$32 multiplied by the total number of recipients of aid to families with dependent children (other than such aid in the form of foster care) for such month, plus (ii) the product of \$100 multiplied by the total number of recipients of aid to families with dependent children in the form of foster care for such month; and

[(2) in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa, an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan, not counting so much of any expenditure with respect to any month as exceeds \$18 multiplied by the total number of recipients of such aid for such month; and

[(3) in the case of any State, 50 percent of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, except that no payment shall be made with respect to amounts expended in connection with the provision of any service described in section 2002(a) other than services furnished pursuant to section 402(g); and

[(5) in the case of any State, an amount equal to 50 percent of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children.

No payment shall be made under this subsection with respect to amounts paid to supplement or otherwise increase the amount of aid to families with dependent children found payable in accordance with section 402(a)(13) if such amount is determined to have been paid by the State in recognition of the current or anticipated needs of a family (other than with respect to the first or first and second months of eligibility), but any such amount, if determined to have been paid by the State in recognition of the difference between the current or anticipated needs of a family for a month based upon actual income or other relevant circumstances for such month, and the needs of such family for such month based upon income and other relevant circumstances as retrospectively determined under section 402(a)(13)(A)(ii), shall not be considered income within the meaning of section 402(a)(13) for the purpose of determining the amount of aid in the succeeding months.

(b) The method of computing and paying such amounts shall be as follows:

[(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate 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 subsection 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, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary may find necessary.

[(2) The Secretary shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary, (A) reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State

for such quarter, (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to families with dependent children furnished under the State plan, and (C) reduced by such amount as is necessary to provide the "appropriate reimbursement of the Federal Government" that the State is required to make under section 457 out of that portion of child support collections retained by it pursuant to such section; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary for such prior quarter.

[(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary, the amount so certified.

[(e) In order to assist in obtaining the information needed to carry out subsection (b)(1) and otherwise to perform his duties under this part, the Secretary shall establish uniform reporting requirements under which each State will be required periodically to furnish such information and data as the Secretary may determine to be necessary to ensure that sections 402(a)(37), 402(a)(43), and 402(g)(1)(A), are being effectively implemented, including at a minimum the average monthly number of families assisted under each such section, the types of such families, the amounts expended with respect to such families, and the length of time for which such families are assisted. The information and data so furnished with respect to families assisted under section 402(g) shall be separately stated with respect to families who have earnings and those who do not, and with respect to families who are receiving aid under the State plan and those who are not.

(f) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1973, be reduced by 1 per centum (calculated without regard to any reduction under section 403(g)) of such amount if such State—

[(1) in the immediately preceding fiscal year failed to carry out the provisions of section 402(a)(15)(B) as pertain to requiring the offering and arrangement for provision of family planning services; or

[(2) in the immediately preceding fiscal year (but, in the case of the fiscal year beginning July 1, 1972, only considering the third and fourth quarters thereof), failed to carry out the provisions of section 402(a)(15)(B) of the Social Security Act with respect to any individual who, within such period or periods as the Secretary may prescribe, has been an applicant for or recipient of aid to families with dependent children under the plan of the State approved under this part.

[(h)(1) Notwithstanding any other provision of this Act, if a State's program operated under part D is found as a result of a re-

view conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter beginning after September 30, 1983, and the Secretary determines that the State's program is not complying substantially with such requirements at the time such finding is made, the amounts otherwise payable to the State under this part for such quarter and each subsequent quarter, prior to the first quarter throughout which the State program is found to be in substantial compliance with such requirements, shall be reduced (subject to paragraph (2)) by—

[(A) not less than one nor more than two percent, or

[(B) not less than two nor more than three percent, if the finding is the second consecutive such finding made as a result of such a review, or

[(C) not less than three nor more than five percent, if the finding is the third or a subsequent consecutive such finding made as a result of such a review.

(2)(A) The reductions required under paragraph (1) shall be suspended for any quarter if—

[(i) the State submits a corrective action plan, within a period prescribed by the Secretary following notice of the finding under paragraph (1), which contains steps necessary to achieve substantial compliance within a time period which the Secretary finds to be appropriate;

[(ii) the Secretary approves such corrective action plan (and any amendments thereto) as being sufficient to achieve substantial compliance; and

[(iii) the Secretary finds that the corrective action plan (and any amendment thereto approved by the Secretary under clause (ii)), is being fully implemented by the State and that the State is progressing in accordance with the timetable contained in the plan to achieve substantial compliance with such requirements.

[(B) A suspension of the penalty under subparagraph (A) shall continue until such time as the Secretary determines that—

[(i) the State has achieved substantial compliance,

[(ii) the State is no longer implementing its corrective action plan, or

[(iii) the State is implementing or has implemented its corrective action plan but has failed to achieve substantial compliance within the appropriate time period (as specified in subparagraph (A)(i)).

[(C)(i) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(i), the penalty shall not be applied.

[(ii) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(ii), the penalty shall be applied as if the suspension had not occurred.

[(iii) In the case of a State whose penalty suspension ends pursuant to subparagraph (B)(iii), the penalty shall be applied to all quarters ending after the expiration of the time period specified in such subparagraph (and prior to the first quarter throughout which the State program is found to be in substantial compliance).

[(3) For purposes of this subsection, section 402(a)(27), 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 child support enforcement program.

[(k)(1) Each State with a plan approved under part F shall be entitled to payments under subsection (l) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in such subsection) of its expenditures to carry out the program under part F (subject to limitations prescribed by or pursuant to such part or this section on expenditures that may be included for purposes of determining payment under subsection (l)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under paragraph (2) with respect to the State.

[(2) The limitation determined under this paragraph with respect to a State for any fiscal year is—

[(A) the amount allotted to the State for fiscal year 1987 under part C of this title as then in effect, plus

[(B) the amount that bears the same ratio to the amount specified in paragraph (3) for such fiscal year as the average monthly number of adult recipients (as defined in paragraph (4)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

[(3) The amount specified in this paragraph is—

[(A) \$600,000,000 in the case of the fiscal year 1989,

[(B) \$800,000,000 in the case of the fiscal year 1990,

[(C) \$1,000,000,000 in the case of each of the fiscal years 1991, 1992, and 1993,

[(D) \$1,100,000,000 in the case of the fiscal year 1994,

[(E) \$1,300,000,000 in the case of the fiscal year 1995, reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1995 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be \$1,300,000,000 for the purpose of determining the amount of the payment under subsection (l) to which each State is entitled), and

[(F) \$1,000,000,000 in the case of the fiscal year 1996 and each succeeding fiscal year, reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be \$1,000,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),

reduced by the aggregate amount allotted to all the States for fiscal year 1987 pursuant to part C of this title as then in effect.

[(4) For purposes of this subsection, the term "adult recipient" in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with payments of aid to families with dependent children.

[(5) None of the funds available to a State for purposes of the programs or activities conducted under part F shall be used for construction.

[(1)(A) In lieu of any payment under subsection (a), the Secretary shall pay to each State with a plan approved under section 482(a) (subject to the limitation determined under section 482(i)(2)) with respect to expenditures by the State to carry out a program under part F (including expenditures for child care under section 402(g)(1)(A)(i), but only in the case of a State with respect to which section 1108 applies), an amount equal to—

[(i) with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in the fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then in effect, 90 percent; and

[(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)—

[(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such a program for such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services under section 402(g)(2), and

[(II) the greater of 60 percent or the Federal medical assistance percentage (as defined in section 1118 in the case of any State to which section 1108 applies, or as defined in section 1905(b) in the case of any other State), in the case of expenditures made by a State in operating such a program for such fiscal year (other than for costs described in subclause (I)).

[(B) With respect to the amount for which payment is made to a State under subparagraph (A)(i), the State's expenditures for the costs of operating a program established under part F may be in cash or in kind, fairly evaluated.

[(2)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in operating its program established under part F (in lieu of any different percentage specified in paragraph (1)(A)) if less than 55 percent of such expenditures are made with respect to individuals who are described in subparagraph (B).

[(B) An individual is described in this paragraph if the individual—

[(i)(I) is receiving aid to families with dependent children, and

[(II) has received such aid for any 36 of the preceding 60 months;

[(ii)(I) makes application for aid to families with dependent children, and

[(II) has received such aid for any 36 of the 60 months immediately preceding the most recent month for which application has been made;

[(iii) is a custodial parent under the age of 24 who (I) has not completed a high school education and, at the time of application for aid to families with dependent children, is not en-

rolled in high school (or a high school equivalency course of instruction), or (II) had little or no work experience in the preceding year; or

[(iv) is a member of a family in which the youngest child is within 2 years of being ineligible for aid to families with dependent children because of age.

[(C) This paragraph may be waived by the Secretary with respect to any State which demonstrates to the satisfaction of the Secretary that the characteristics of the caseload in that State make it infeasible to meet the requirements of this paragraph, and that the State is targeting other long-term or potential long-term recipients.

[(D) The Secretary shall biennially submit to the Congress any recommendations for modifications or additions to the groups of individuals described in subparagraph (B) that the Secretary determines would further the goal of assisting long-term or potential long-term recipients of aid to families with dependent children to achieve self-sufficiency, which recommendations shall take into account the particular characteristics of the populations of individual States.

[(3)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in a fiscal year in operating its program established under part F (in lieu of any different percentage specified in paragraph (1)(A)) if the State's participation rate (determined under subparagraph (B)) for the preceding fiscal year does not exceed or equal—

[(i) 7 percent if the preceding fiscal year is 1990;

[(ii) 7 percent if such year is 1991;

[(iii) 11 percent if such year is 1992;

[(iv) 11 percent if such year is 1993;

[(v) 15 percent if such year is 1994; and

[(vi) 20 percent if such year is 1995.

[(B)(i) The State's participation rate for a fiscal year shall be the average of its participation rates for computation periods (as defined in clause (ii)) in such fiscal year.

[(ii) The computation periods shall be—

[(I) the fiscal year, in the case of fiscal year 1990,

[(II) the first six months, and the seventh through twelfth months, in the case of fiscal year 1991,

[(III) the first three months, the fourth through sixth months, the seventh through ninth months, and the tenth through twelfth months, in the case of fiscal years 1992 and 1993, and

[(IV) each month, in the case of fiscal years 1994 and 1995.

[(iii) The State's participation rate for a computation period shall be the number, expressed as a percentage, equal to—

[(I) the average monthly number of individuals required or allowed by the State to participate in the program under part F who have participated in such program in months in the computation period, plus the number of individuals required or allowed by the State to participate in such program who have

so participated in that month in such period for which the number of such participants is the greatest, divided by

[(II) twice the average monthly number of individuals required to participate in such period (other than individuals described in subparagraph (C)(iii)(I) or (D) of section 402(a)(19) with respect to whom the State has exercised its option to require their participation).

For purposes of this subparagraph, an individual shall not be considered to have satisfactorily participated in the program under part F solely by reason of such individual being registered to participate in such program.

[(C) Notwithstanding any other provision of this paragraph, no State shall be subject to payment under this paragraph (in lieu of paragraph (1)(A)) for failing to meet any participation rate required under this paragraph with respect to any fiscal year before 1991.

[(D) For purposes of this paragraph, an individual shall be determined to have participated in the program under part F, if such individual has participated in accordance with such requirements, consistent with regulations of the Secretary, as the State shall establish.

[(E) If the Secretary determines that the State has failed to achieve the participation rate for any fiscal year specified in the numbered clauses of subparagraph (A), he may waive, in whole or in part, the reduction in the payment rate otherwise required by such subparagraph if he finds that—

[(i) the State is in conformity with section 402(a)(19) and part F;

[(ii) the State has made a good faith effort to achieve the applicable participation rate for such fiscal year; and

[(iii) the State has submitted a proposal which is likely to achieve the applicable participation rate for the current fiscal year and the subsequent fiscal years (if any) specified therein.

[(4)(A)(i) Subject to subparagraph (B), in the case of any family eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner, the State agency shall require that at least one parent in any such family participate, for a total of at least 16 hours a week during any period in which either parent is required to participate in the program, in a work supplementation program, a community work experience or other work experience program, on-the-job training, or a State designed work program approved by the Secretary, as such programs are described in section 482(d)(1). In the case of a parent under age 25 who has not completed high school or an equivalent course of education, the State may require such parent to participate in educational activities directed at the attainment of a high school diploma (or equivalent) or another basic education program in lieu of one or more of the programs specified in the preceding sentence.

[(ii) For purposes of clause (i), an individual participating in a community work experience program under section 482 shall be considered to have met the requirement of such clause if he participates for the number of hours in any month equal to the monthly payment of aid to families with dependent children to the family of which he is a member, divided by the greater of the Federal or

the applicable State minimum wage (and the portion of such monthly payment for which the State is reimbursed by a child support collection shall not be taken into account in determining the number of hours that such individual may be required to work).

[(B) The requirement under subparagraph (A) shall not be considered to have been met by any State if the requirement is not met with respect to the following percentages of all families in the State eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner:

[(i) 40 percent, in the case of the average of each month in fiscal year 1994,

[(ii) 50 percent, in the case of the average of each month in fiscal year 1995,

[(iii) 60 percent, in the case of the average of each month in fiscal year 1996, and

[(iv) 75 percent in the case of the average of each month in each of the fiscal years 1997 and 1998.

[(C) The percentage of participants for any month in a fiscal year for purposes of the preceding sentence shall equal the average of—

[(i) the number of individuals described in subparagraph (A)(i) who have met the requirement prescribed therein, divided by

[(ii) the total number of principal earners described in such subparagraph (but excluding those in families who have been recipients of aid for 2 months or less if, during the period that the family received aid, at least one parent engaged in intensive job search).

[(D) If the Secretary determines that the State has failed to meet the requirement under subparagraph (A) (determined with respect to the percentages prescribed in subparagraph (B)), he may waive, in whole or in part, any penalty if he finds that—

[(i) the State is operating a program in conformity with section 402(a)(19) and part F,

[(ii) the State has made a good faith effort to meet the requirement of subparagraph (A) but has been unable to do so because of economic conditions in the State (including significant numbers of recipients living in remote locations or isolated rural areas where the availability of work sites is severely limited), or because of rapid and substantial increases in the caseload that cannot reasonably be planned for, and

[(iii) the State has submitted a proposal which is likely to achieve the required percentage of participants for the subsequent fiscal years.

[(m)(1) During the 12-month period beginning on July 1, 1988 (in this subsection referred to as the “moratorium period”), the Secretary shall not impose any reductions in payments to States pursuant to subsection (i) (or prior regulations), or pursuant to any comparable provision of law relating to the programs under this part in Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands.

[(2) During the moratorium period—

[(A) the Secretary and the States shall continue to operate the quality control systems in effect under this part, and to cal-

culate the error rates under the provisions referred to in paragraph (1), including the process of requesting and reviewing waivers; and

[(B) the Departmental Grant Appeals Board shall, notwithstanding paragraph (1), review disallowances for fiscal year 1981 and thereafter and hear appeals with respect thereto (but collection of disallowances owed as a result of Departmental Grant Appeals Board decisions shall not occur).

[(n)(1) In addition to any payment under subsection (a) or (l), each State shall be entitled to payment from the Secretary of an amount equal to the lesser of—

[(A) the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State in providing child care services pursuant to section 402(i), and in administering the provision of such child care services, for any fiscal year; and

[(B) the limitation determined under paragraph (2) with respect to the State for the fiscal year.

[(2)(A) The limitation determined under this paragraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (B) for such fiscal year as the number of children residing in the State in the second preceding fiscal year bears to the number of children residing in the United States in the second preceding fiscal year.

[(B) The amount specified in this subparagraph is—

[(i) \$300,000,000 for fiscal year 1991;

[(ii) \$300,000,000 for fiscal year 1992;

[(iii) \$300,000,000 for fiscal year 1993;

[(iv) \$300,000,000 for fiscal year 1994; and

[(v) \$300,000,000 for fiscal year 1995, and for each fiscal year thereafter.

[(C) If the limitation determined under subparagraph (A) with respect to a State for a fiscal year exceeds the amount paid to the State under this subsection for the fiscal year, the limitation determined under this paragraph with respect to the State for the immediately succeeding fiscal year shall be increased by the amount of such excess.

[(3) Amounts appropriated for a fiscal year to carry out this part shall be made available for payments under this subsection for such fiscal year.

#### 【OPERATION OF STATE PLANS

【SEC. 404. (a) In the case of any State plan for aid and services to needy families with children which has been approved by the Secretary, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

[(1) that the plan has been so changed as to impose any residence requirement prohibited by section 402(b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

[(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 402(a) to be included in the plan; the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

[(b) No payment to which a State is otherwise entitled under this part for any period before September 1, 1962, shall be withheld by reason of any action taken pursuant to a State statute which requires that aid be denied under the State plan approved under this part with respect to a child because of the conditions in the home in which the child resides; nor shall any such payment be withheld for any period beginning on or after such date by reason of any action taken pursuant to such a statute if provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child.

[(c) No State shall be found, prior to January 1, 1977, to have failed substantially to comply with the requirements of section 402(a)(27) if, in the judgment of the Secretary, such State is making a good faith effort to implement the program required by such section.

[(d) After December 31, 1976, in the case of any State which is found to have failed substantially to comply with the requirements of section 402(a)(27), the reduction in any amount payable to such State required to be imposed under section 403(h) shall be imposed in lieu of any reduction, with respect to such failure, which would otherwise be required to be imposed under this section.

#### [USE OF PAYMENTS FOR BENEFIT OF CHILD

[SEC. 405. Whenever the State agency has reason to believe that any payments of aid to families with dependent children made with respect to a child are not being or may not be used in the best interests of the child, the State agency may provide for such counseling and guidance services with respect to the use of such payments and the management of other funds by the relative receiving such payments as it deems advisable in order to assure use of such payments in the best interests of such child, and may provide for advising such relative that continued failure to so use such payments will result in substitution therefor of protective payments as provided under section 406(b)(2), or in seeking appointment of a guardian or legal representative as provided in section 1111, or in the imposition of criminal or civil penalties authorized under State law if it is determined by a court of competent jurisdiction that such relative is not using or has not used for the benefit of the child any such payments made for that purpose; and the provision of such services or advice by the State agency (or the taking of the action specified in such advice) shall not serve as a basis for with-

holding funds from such State under section 404 and shall not prevent such payments with respect to such child from being considered aid to families with dependent children.

#### DEFINITIONS

SEC. 406. When used in this part—

[(a) The term “dependent child” means a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home (other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States), or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (A) under the age of eighteen, or (B) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training);

[(b) The term “aid to families with dependent children” means money payments with respect to a dependent child or dependent children, or, at the option of the State, a pregnant woman but only if it has been medically verified that the child is expected to be born in the month such payments are made or within the three-month period following such month of payment, and who, if such child had been born and was living with her in the month of payment, would be eligible for aid to families with dependent children, and includes (1) money payments to meet the needs of the relative with whom any dependent child is living (and the spouse of such relative if living with him and if such relative is the child’s parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 407), and (2) payments with respect to any dependent child (including payments to meet the needs of the relative, and the relative’s spouse, with whom such child is living, and the needs of any other individual living in the same home if such needs are taken into account in making the determination under section 402(a)(7)) which do not meet the preceding requirements of this subsection, but which would meet such requirements except that such payments are made to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such child or relative, or are made on behalf of such child or relative directly to a person furnishing food, living accommodations, or other goods, services, or items to or for such child, relative, or other individual, but only with respect to a State whose State plan approved under section 402 includes provision for—

[(A) determination by the State agency that the relative of the child with respect to whom such payments are made has such inability to manage funds that making payments to him would be contrary to the welfare of the child and, therefore, it



is necessary to provide such aid with respect to such child and relative through payments described in this clause (2);

[(B) undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family;

[(C) periodic review by such State agency of the determination under clause (A) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1111, if and when it appears that the need for such payments is continuing, or is likely to continue, beyond a period specified by the Secretary; and

[(D) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) for any individual with respect to whom it is made.

Payments with respect to a dependent child which are intended to enable the recipient to pay for specific goods, services, or items recognized by the State agency as a part of the child's need under the State plan may (in the discretion of the State or local agency administering the plan in the political subdivision) be made, pursuant to a determination referred to in clause (2)(A), in the form of checks drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and negotiable only upon endorsement by both such recipient and such person; and payments so made shall be considered for all of the purposes of this part to be payments described in clause (2). Whenever payments with respect to a dependent child are made in the manner described in clause (2) (including payments described in the preceding sentence), a statement of the specific reasons for making such payments in that manner (on which the determination under clause (2)(A) was based) shall be placed in the file maintained with respect to such child by the State or local agency administering the State plan in the political subdivision. Payments of the type described in clause (2) shall not be subject to the requirements of clauses (A) through (D) of such clause (2), when they are made in the manner described in clause (2) at the request of the family member to whom payment would otherwise be made in an unrestricted manner.

[(c) The term "relative with whom any dependent child is living" means the individual who is one of the relatives specified in subsection (a) and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

[(e)(1) The term "emergency assistance to needy families with children" means any of the following, furnished for a period not in excess of 30 days in any 12-month period, in the case of a needy child under the age of 21 who is (or, within such period as may be specified by the Secretary, has been) living with any of the relatives specified in subsection (a)(1) in a place of residence maintained by one or more of such relatives as his or their own home, but only where such child is without available resources, the payments, care, or services involved are necessary to avoid destitution

of such child or to provide living arrangements in a home for such child, and such destitution or need for living arrangements did not arise because such child or relative refused without good cause to accept employment or training for employment—

[(A) money payments, payments in kind, or such other payments as the State agency may specify with respect to, or medical care or any other type of remedial care recognized under State law (for which such individual is not entitled to medical assistance under the State plan under title XIX) on behalf of, such child or any other member of the household in which he is living, and

[(B) such services as may be specified by the Secretary; but only with respect to a State whose State plan approved under section 402 includes provision for such assistance.

[(2) Emergency assistance as authorized under paragraph (1) may be provided under the conditions specified in such paragraph to migrant workers with families in the State or in such part or parts thereof as the State shall designate.

[(f) Notwithstanding the provisions of subsection (b), the term “aid to families with dependent children” does not mean payments with respect to a parent (or other individual whose needs such State determines should be considered in determining the need of the child or relative claiming aid under the plan of such State approved under this part) of a child who fails to cooperate with any agency or official of the State in obtaining such support payments for such child. Nothing in this subsection shall be construed to make an otherwise eligible child ineligible for protective payments because of the failure of such parent (or such other individual) to so cooperate.

[(g) Notwithstanding the provisions of subsection (b), the term “aid to families with dependent children” does not mean any—

[(1) amount paid to meet the needs of an unborn child; or

[(2) amount paid (or by which a payment is increased) to meet the needs of a woman occasioned by or resulting from her pregnancy, unless, as has been medically verified, the woman’s child is expected to be born in the month such payments are made (or increased) or within the three-month period following such month of payment.

[(h) Each dependent child, and each relative with whom such a child is living (including the spouse of such relative as described in subsection (b)), who becomes ineligible for aid to families with dependent children as a result (wholly or partly) of the collection or increased collection of child or spousal support under part D, and who has received such aid in at least three of the six months immediately preceding the month in which such ineligibility begins, shall be deemed to be a recipient of aid to families with dependent children for purposes of title XIX for an additional four calendar months beginning with the month in which such ineligibility begins.

#### DEPENDENT CHILDREN OF UNEMPLOYED PARENTS

[SEC. 407. (a) The term “dependent child” shall, notwithstanding section 406(a), include a needy child who meets the requirements of section 406(a)(2), who has been deprived of parental sup-

port or care by reason of the unemployment (as determined in accordance with standards prescribed by the Secretary) of the parent who is the principal earner, and who is living with any of the relatives specified in section 406(a)(1) in a place of residence maintained by one or more of such relatives as his (or their) own home.

[(b)(1) In providing for the provision of aid to families with dependent children under the State's plan approved under section 402, in the case of families that include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(41), the State's plan—

[(A) subject to paragraph (2), shall require the payment of aid to families with dependent children with respect to a dependent child as defined in subsection (a) when—

[(i) whichever of such child's parents is the principal earner has not been employed (as determined in accordance with standards prescribed by the Secretary) for at least 30 days prior to the receipt of such aid,

[(ii) such parent has not without good cause, within such period (of not less than 30 days) as may be prescribed by the Secretary, refused a bona fide offer of employment or training for employment, and

[(iii)(I) such parent has 6 or more quarters of work (as defined in subsection (d)(1)), no more than 4 of which may be quarters of work defined in subsection (d)(1)(B), in any 13-calendar-quarter period ending within one year prior to the application for such aid or (II) such parent received unemployment compensation under an unemployment compensation law of a State or of the United States, or such parent was qualified (within the meaning of subsection (d)(3)) for unemployment compensation under the unemployment compensation law of the State, within one year prior to the application for such aid; and

[(B) shall provide—

[(i) for such assurances as will satisfy the Secretary that unemployed parents of dependent children as defined in subsection (a) will participate or apply for participation in a program under part F (unless the program is not available in the area where the parent is living) within 30 days after receipt of aid with respect to such children;

[(ii) for entering into cooperative arrangements with the State agency responsible for administering or supervising the administration of vocational education in the State, designed to assure maximum utilization of available public vocational education services and facilities in the State in order to encourage the retraining of individuals capable of being retrained;

[(iii) for the denial of aid to families with dependent children to any child or relative specified in subsection (a) with respect to any week for which such child's parent described in subparagraph (A)(i) qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation;

[(iv) for the reduction of the aid to families with dependent children otherwise payable to any child or relative specified in subsection (a) by the amount of any unemployment compensation that such child's parent described in subparagraph (A)(i) receives under an unemployment compensation law of a State or of the United States; and

[(v) that, if and for so long as the child's parent described in subparagraph (A)(i), unless meeting a condition of section 402(a)(19)(C), is, without good cause, not participating (or available for participation) in a program under part F, or if exempt under such section by reason of clause (vii) thereof or because there has not been established or provided under part F a program in which such parent can effectively participate, is not registered with the public employment offices in the State, the needs of such parent shall not be taken into account in determining the need of such parent's family under section 402(a)(7), and the needs of such parent's spouse shall not be so taken into account unless such spouse is participating in such a program, or if not participating solely by reason of section 402(a)(19)(C)(vii) or because there has not been established or provided under part F a program in which such spouse can effectively participate, is registered with the public employment offices of the State; and if neither parents' needs are so taken into account, the payment provisions of section 402(a)(19)(G)(i)(I) shall apply.

[(2)(A) In carrying out the program under this section, a State may design its program to reflect the individual needs of the State and to emphasize education, training, and employment services for unemployed parents and their spouses who are eligible for aid to families with dependent children by reason of this section, to the extent provided under this paragraph.

[(B)(i) Subject to clauses (ii) and (iii), with respect to the requirement under section 402(a)(41), a State may, at its option, limit the number of months with respect to which a family receives aid to families with dependent children to the extent determined appropriate by the State for the operation of its program under this section.

[(ii)(I) A State may not limit the number of months under clause (i) for which a family may receive aid to families with dependent children unless it provides in its plan assurances to the Secretary that it has a program (that meets such requirements as the Secretary may in regulation prescribe) for providing education, training, and employment services (including any activity authorized under section 402(a)(19) or under part F) in order to assist parents of children described in subsection (a) in preparing for and obtaining employment.

[(II) In exercising the option under clause (i), a State plan may not provide for the denial of aid to families with dependent children to a family otherwise eligible for such aid for any month unless the family has received such aid (on the basis of the unemployment of the parent who is the principal earner) in at least 6 of the preceding 12 months.

[(III) Any family that is otherwise eligible for aid to families with dependent children that does not receive such aid in any month solely by reason of the State exercising the option under clause (i) shall be deemed, for purposes of determining the period under paragraph (1)(A)(iii)(I), to be receiving such aid in such month.

[(iii) Each State which, on September 26, 1988, has a program in effect under this section shall continue to operate such program without a time limitation.

[(C) With respect to the participation in the program under section 402(a)(19) and part F of a family eligible for aid to families with dependent children by reason of this section, a State may, at its option—

[(i) except as otherwise provided in such section and such part, require that any parent participating in such program engage in program activities for up to 40 hours per week; and

[(ii) provide for the payment of aid to families with dependent children at regular intervals of no greater than one month but after the performance of assigned program activities.

[(c) Notwithstanding any other provisions of this section, expenditures pursuant to this section shall be excluded from aid to families with dependent children (A) where such expenditures are made under the plan with respect to any dependent child as defined in subsection (a), (i) for any part of the 30-day period referred to in subsection (b)(1)(A)(i), or (ii) for any period prior to the time when the parent satisfies subsection (b)(1)(A)(ii), and (B) if, and for as long as, no action is taken (after the 30-day period referred to in subsection (b)(1)(B)(i), under the program therein specified, to undertake appropriate steps directed towards the participation of such parent in a program under part F.

[(d) For purposes of this section—

[(1) the term “quarter of work” with respect to any individual means (A) a calendar quarter in which such individual received earned income of not less than \$50 (or which is a “quarter of coverage” as defined in section 213(a)(2)), or in which such individual participated in a program under part F, (B) at the option of the State, a calendar quarter in which such individual attended, full-time, an elementary school, a secondary school, or a vocational or technical training course (approved by the Secretary) that is designed to prepare the individual for gainful employment, or in which such individual participated in an education or training program established under the Job Training Partnership Act, and (C) a calendar quarter ending before October 1990 in which such individual participated in a community work experience program under section 409 (as in effect for a State immediately before the effective date for that State of the amendments made by title II of the Family Support Act of 1988 or the work incentive program established under part C (as in effect for a State immediately before such effective date);

[(2) the term “calendar quarter” means a period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31;

[(3) an individual shall, for purposes of subsection (b)(1)(A)(iii), be deemed qualified for unemployment compensation under the State's unemployment compensation law if—

[(A) he would have been eligible to receive such unemployment compensation upon filing application, or

[(B) he performed work not covered under such law and such work, if it had been covered, would (together with any covered work he performed) have made him eligible to receive such unemployment compensation upon filing application; and

[(4) the phrase "whichever of such child's parents is the principal earner", in the case of any child, means whichever parent, in a home in which both parents of such child are living, earned the greater amount of income in the 24-month period the last month of which immediately precedes the month in which an application is filed for aid under this part on the basis of the unemployment of a parent, for each consecutive month for which the family receives such aid on that basis.

Notwithstanding section 402(a)(1), a State that chooses to exercise the option provided under paragraph (1)(B) may provide that the definition of calendar quarter under such option apply in one or more political subdivisions of the State.

[(e) The Secretary and the Secretary of Labor shall jointly enter into an agreement with each State which is able and willing to do so for the purpose of (1) simplifying the procedures to be followed by unemployed parents and other unemployed persons in such State in participating in a program under part F and in registering with public employment offices (under this section and otherwise) or in connection with applications for unemployment compensation, by reducing the number of locations or agencies where such persons must go in order to participate in or register for such programs and in connection with such applications, and (2) providing where possible for a single registration satisfying this section and the requirements of both part F and the applicable unemployment compensation laws.

**[SEC. 408. AFDC QUALITY CONTROL SYSTEM.—**

[(a) IN GENERAL.—In order to improve the accuracy of payments of aid to families with dependent children, the Secretary shall establish and operate a quality control system under which the Secretary shall determine, with respect to each State, the amount (if any) of the disallowance required to be repaid to the Secretary due to erroneous payments made by the State in carrying out the State plan approved under this part.

**[(b) REVIEW OF CASES.—**

**[(1) STATE REVIEW.—**

[(A) IN GENERAL.—Each State with a plan approved under this part shall for each fiscal year, in accordance with the time schedule and methodology prescribed in regulations issued under paragraphs (1) and (2) of subsection (h)—

[(i) review a sample of cases in the State with respect to which a payment has been made under such plan during the fiscal year; and

[(ii) determine the level of erroneous payments for the State for the fiscal year.

[(B) Effects of failure to complete review in a timely manner.—

[(i) SECRETARY CONDUCTS REVIEW.—If a State fails to conduct and complete, on a timely basis, a review required by subparagraph (A), or otherwise fails to cooperate with the Secretary in implementing this subsection, the Secretary, directly or through contractual or such other arrangements as the Secretary may find appropriate, shall conduct the review and establish the error rate for the State for the fiscal year on the basis of the best data reasonably available to the Secretary, in accordance with the statistical methods that would apply if the review were conducted by the State.

[(ii) STATE INCURS COSTS OF REVIEW.—The amount that would otherwise be payable under this part to a State for which the Secretary conducts a review under clause (i) shall be reduced by the costs incurred by the Secretary in conducting the review.

[(2) REVIEW BY THE SECRETARY.—The Secretary shall review a subsample of the cases reviewed by the State, or by the Secretary with respect to the State, under paragraph (1).

[(3) NOTIFICATION OF DIFFERENCE CASES.—Upon completion of the review under paragraph (2), the Secretary shall notify the State of any case in the subsample which the Secretary finds involves erroneous payments, and which the State's review determined to be correct (in this section referred to as a "difference case").

[(4) ESTABLISHMENT OF QUALITY CONTROL REVIEW PANEL.—The Secretary shall by regulation establish a Quality Control Review Panel to review difference cases.

[(5) RESOLUTION OF DIFFERENCE CASES.—

[(A) IN GENERAL.—The State may seek review by the Panel of any difference case, within the time period prescribed in regulations issued under subsection (h)(3).

[(B) PROCEDURAL RULES.—The State and the Secretary may submit such documentation to the Panel as the State or the Secretary finds appropriate to substantiate its position. The findings of the Panel shall be made on the record, within the time period prescribed in regulations issued under subsection (h)(4).

[(C) STATUS OF DECISIONS OF THE QUALITY CONTROL REVIEW PANEL.—The decisions of the Panel shall constitute the decisions of the Secretary for purposes of establishing the State's error rate for the fiscal year.

[(D) APPEALABILITY OF DECISIONS OF THE QUALITY CONTROL REVIEW PANEL.—The decisions of the Panel shall not be appealable, except as provided in subsection (k).

[(c) IDENTIFICATION OF ERRONEOUS PAYMENTS.—

[(1) APPLY PROVISIONS OF STATE PLAN.—Except as provided in paragraph (2), in determining whether a payment is an erroneous payment, the State and the Secretary shall apply

all relevant provisions of the State plan approved under this part.

[(2) TREATMENT OF PROVISIONS OF STATE PLAN THAT ARE INCONSISTENT WITH FEDERAL LAW.—

[(A) IN GENERAL.—If a provision of a State plan approved under this part is inconsistent with a provision of Federal law or regulations, and the Secretary has notified the State of the inconsistency, the provision of Federal law or regulations shall control.

[(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to a payment of the State if—

[(i) it is necessary for the State to enact a law in order to remove an inconsistency described in subparagraph (A), the Secretary has advised the State that the State will be allowed a reasonable period in which to enact such a law, and the payment was made during such period; or

[(ii) the State agency made the payment in compliance with a court order.

[(3) CERTAIN PAYMENTS NOT CONSIDERED ERRONEOUS.—For purposes of this section, a payment by a State shall not be considered an erroneous payment if the payment is in error solely by reason of—

[(A) the State's failure to implement properly changes in Federal statute within 6 months after the effective date of such changes or, if later, 6 months after the issuance of final regulations (including regulations in interim final form) if such regulations are reasonably necessary to construe or apply the Federal statutory change;

[(B) the State's reliance upon and correct use of erroneous information provided by the Secretary about matters of fact;

[(C) the State's reliance upon and correct use of written statements of Federal policy provided to the State by the Secretary;

[(D) the occurrence of an event in the State that—

[(i) results in the declaration by the President or the Governor of the State of a state of emergency or major disaster; and

[(ii) directly affects the State agency's ability to make correct payments under the State plan approved under this part; or

[(E) the failure of a family to submit monthly reports to the State pursuant to section 402(a)(14), if the failure did not affect the amount of the payment.

[(4) CERTAIN PAYMENTS CONSIDERED ERRONEOUS.—Notwithstanding any other provision of this section, a payment shall be considered an erroneous payment if the payment is made to a family—

[(A) which has failed without good cause to assign support rights as required by section 402(a)(26); or

[(B) any member of which is a recipient of aid under a State plan approved under this part and does not have a social security account number (unless an application for



a social security account number for the family member has been filed within 30 days after the date of application for such aid).

[(d) DETERMINATION OF ERROR RATES.—

[(1) IN GENERAL.—The Secretary shall, in accordance with this subsection, determine an error rate for each State for the fiscal year involved, based on the reviews under paragraphs (1) and (2) of subsection (b) and the decisions of the Quality Control Review Panel under subsection (b)(5).

[(2) ERROR RATE FORMULA.—Except as provided in paragraph (3), the State's error rate for a fiscal year is—

[(A) the ratio of—

[(i) the erroneous payments of the State for the fiscal year; to

[(ii) the total payments of aid under the State plan approved under this part for the fiscal year; reduced by

[(B) the amount by which—

[(i) the national average underpayment rate for the fiscal year; exceeds

[(ii) the underpayment rate of the State for the fiscal year.

[(3) APPLICATION OF REDUCTION TO SUBSEQUENT FISCAL YEAR.—At the request of a State, the Secretary shall apply the reduction described in paragraph (2)(B) in determining the State's error rate for either of the 2 following fiscal years instead of in determining the State's error rate for the fiscal year to which the reduction would otherwise apply.

[(e) NOTIFICATION TO STATES OF ERROR RATES.—The Secretary shall notify each State of the error rate of the State determined under subsection (d), within the time period prescribed in regulations issued under subsection (h)(5).

[(f) IMPOSITION OF DISALLOWANCES.—If a State's error rate for the fiscal year exceeds the national average error rate for the fiscal year, the Secretary shall impose a disallowance on the State for the fiscal year in an amount equal to—

[(1) the product of—

[(A) the State's total payments of aid to families with dependent children for the fiscal year;

[(B) the Federal medical assistance percentage applicable to the State for purposes of section 1118;

[(C) the lesser of—

[(i) the ratio of—

[(I) the amount by which the State's error rate for the fiscal year exceeds the national average error rate for the fiscal year; to

[(II) the national average error rate for the fiscal year; or

[(ii) 1; and

[(D) the amount by which the State's error rate for the fiscal year exceeds the national average error rate for the fiscal year;

reduced by

[(2) the product of—

Γ(A) the ratio of—

[(1) the amount by which the State's error rate for the fiscal year exceeds the national average error rate for the fiscal year; and

[(ii) the State's error rate for the fiscal year;

[(A)] the state's error rate for the fiscal year;

[(B)] the overpayments recovered by the State in the fiscal year; and

[(C) the Federal medical assistance percentage applicable to the State for purposes of section 1118;

and further reduced by

[(3) the product of—

【(A) the calculation described in paragraphs (1) and (2); and

[(B) the percentage by which—

[(i) the State's rate of child support collections for the fiscal year: exceeds

[(ii) the lesser of—

[(I) the national average rate of child support collections for the fiscal year; or

[(II) the average of the State's child support collection rates for each of the 3 fiscal years preceding the fiscal year.

**[(g) NOTIFICATION TO STATES OF AMOUNTS OF DISALLOWANCES.]**—The Secretary shall notify each State on which the Secretary imposes a disallowance the amount of the disallowance, within the time period prescribed in regulations issued under subsection (h)(6).

【(h) REGULATIONS.—The Secretary, after consultation with the chief executives of the States, shall by regulation prescribe—

[(1) the periods within which—

[(A) the reviews required by paragraphs (1) and (2) of subsection (b) are to begin and be completed; and

[(B) the results of the review required by subsection (b)(1) are to be reported to the Secretary;

[(2) matters relating to the selection and size of the samples to be reviewed under paragraphs (1) and (2) of subsection (b), and the methodology for making statistically valid estimates of each State's error rate;

[(3) the period within which a State may seek review by the Quality Control Review Panel of a difference case;

[(4) the period within which a difference case appealed by a State is to be resolved by the Quality Control Review Panel;

[(5) the period, after the completion of the reviews required by paragraphs (1) and (2) of subsection (b) and the resolution by the Quality Control Review Panel of any difference cases appealed by a State, within which the Secretary is to notify the State of the error rate of the State for the fiscal year involved; and

[(6) the period within which the Secretary is to notify a State of any disallowance.

**[(i) PAYMENT OF DISALLOWANCES.—**

【(1) PAYMENT OPTIONS.—Within 45 days after the date a State is notified of a disallowance pursuant to subsection (g), the State shall, at the option of the State—

[(A) pay the Secretary the amount of the disallowance;

or

[(B) enter into an agreement with the Secretary under which the State will make quarterly payments to the Secretary over a period not to exceed 30 months beginning not later than the first quarter beginning after the date the State receives the notice, in amounts sufficient to repay the disallowance with interest by the end of such period.

[(2) AUTHORITY TO ADJUST STATE MATCHING PAYMENTS.—

If a State fails to pay the amount of a disallowance imposed on the State, in the manner required by the applicable subparagraph of paragraph (1), the Secretary shall reduce the amount to be paid to the State under section 403(a) by amounts sufficient to recover the amount of the disallowance with interest.

[(3) INTEREST ON UNPAID DISALLOWANCES.—

[(A) RATE OF INTEREST.—Interest on the unpaid amount of a disallowance shall accrue at the overpayment rate established under section 6621(a)(1) of the Internal Revenue Code of 1986.

[(B) ACCRUAL OF INTEREST.—

[(i) IN GENERAL.—Except as provided in clause (ii), interest on the unpaid amount of a State's disallowance shall accrue beginning 45 days after the date the State receives notice of the disallowance.

[(ii) EXCEPTION.—If the State appeals the imposition of a disallowance under this section to the Departmental Appeals Board and the Board does not decide the appeal within 90 days after the date of the State's notice of appeal, interest shall not accrue on the unpaid amount of the disallowance during the period beginning on such 90th day and ending on the date of the Board's final decision on the appeal, except to the extent that the Board finds that the State caused or requested the delay.

[(j) ADMINISTRATIVE REVIEW OF DISALLOWANCES.—

[(1) IN GENERAL.—Within 60 days after the date a State receives notice of a disallowance imposed under this section, the State may appeal the imposition of the disallowance, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services, by filing an appeal with the Board.

[(2) PROCEDURAL RULES.—The Board shall consider a State's appeal on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold a disallowance or any portion thereof, the Board shall conduct a thorough review of the issues and take into account all relevant evidence. In rendering its final decision, the Board shall incorporate by reference any findings of the Quality Control Review Panel that were made in connection with the determination of the error rate and the amount of the disallowance, and such findings shall not be reviewable by the Board.

[(k) JUDICIAL REVIEW OF DISALLOWANCES.—

[(1) IN GENERAL.—Within 90 days after the date of a final decision by the Departmental Appeals Board with respect to the imposition of a disallowance on a State under this section, the State may obtain judicial review of the final decision (and the findings of the Quality Control Review Panel incorporated into the final decision) by filing an action in—

[(A) the district court of the United States for the judicial district in which the principal or headquarters office of the State agency is located; or

[(B) the United States District Court for the District of Columbia.

[(2) PROCEDURAL RULES.—The district court in which an action is filed shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code. The review shall be on the basis of the documents and supporting data submitted to the Board (or to the Quality Control Review Panel, in the case of any finding by the Panel which is at issue in the appeal).

[(1) REFUND OF DISALLOWANCES IMPOSED IN ERROR.—If the Secretary, directly or indirectly, receives from a State part or all of the amount of a disallowance imposed on the State under this section, and part or all of the disallowance is finally determined to have been imposed in error, the Secretary shall refund to the State the amount received by reason of the error, with interest which shall accrue from the date of receipt at the rate described in subsection (i)(3)(A).

[(m) DEFINITIONS.—As used in this section:

[(1) NATIONAL AVERAGE ERROR RATE.—The term “national average error rate” for a fiscal year means the greater of—

[(A) the ratio of—

[(i) the total amount of erroneous payments made by all States for the fiscal year; to

[(ii) the total amount of aid paid by all the States for the fiscal year under plans approved under this part; or

[(B) 4 percent.

[(2) UNDERPAYMENT RATE.—The term “underpayment rate”, with respect to a State for a fiscal year, means the ratio of—

[(A) the total amounts of aid that should have been but were erroneously not paid for the fiscal year to recipients of aid under the State plan approved under this part; to

[(B) the total amount of aid paid under such plan for the fiscal year.

[(3) NATIONAL AVERAGE UNDERPAYMENT RATE.—The term “national average underpayment rate” for a fiscal year means the ratio of—

[(A) the total amounts of aid that should have been but were erroneously not paid for a fiscal year to all recipients of aid under State plans approved under this part; to

[(B) the total amount of aid paid for the fiscal year under all State plans approved under this part.

[(4) CHILD SUPPORT COLLECTION RATE.—The term “child support collection rate”, with respect to a State for a fiscal year, means the ratio of—

[(A) the sum of the number of cases reported by the agency administering the State plan approved under part D for each quarter in the fiscal year for which—

[(i) an assignment was made under section 402(a)(26); and

[(ii) a collection was made under the State’s plan approved under part D; to

[(B) the sum of the number of cases reported by such agency for each quarter in the fiscal year under which an assignment was made under section 402(a)(26).

[(5) NATIONAL CHILD SUPPORT COLLECTION RATE.—The term “national child support collection rate” for a fiscal year means the ratio of—

[(A) the sum of the number of cases described in paragraph (4)(A) reported by all States for quarters in the fiscal year; to

[(B) the sum of the number of cases described in paragraph (4)(B) reported by all States for quarters in the fiscal year.

[(6) ERRONEOUS PAYMENTS.—The term “erroneous payments” means the sum of overpayments to eligible families and payments to ineligible families made in carrying out a plan approved under this part.

[EXCLUSION FROM AFDC UNIT OF CHILD FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE

[SEC. 409. (a) Notwithstanding any other provision of this title (other than subsection (b))—

[(1) a child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a member of a family for purposes of determining the amount of benefits of the family under this part; and

[(2) the income and resources of such child shall be excluded from the income and resources of a family under this part.

[(b) Subsection (a) shall not apply in the case of a child with respect to whom adoption assistance payments are made under part E or under State or local law, if application of such subsection would reduce the benefits under this part of the family of which the child would otherwise be regarded as a member.

#### [FOOD STAMP DISTRIBUTION

[SEC. 410. (a) Any State plan for aid and services to needy families with children may (but is not required under this title or any other provision of Federal law to) provide for the institution of procedures, in any or all areas of the State, by the State agency

administering or supervising the administration of such plan under which any household participating in the food stamp program established by the Food Stamp Act of 1977, as amended, will be entitled, if it so elects, to have the charges, if any, for its coupon allotment under such program deducted from any aid, in the form of money payments, which is (or, except for the deduction of such charge, would be) payable to or with respect to such household (or any member or members thereof) under such plan and have its coupon allotment distributed to it with such aid.

[(b) Any deduction made pursuant to an option provided in accordance with subsection (a) shall not be considered to be a payment described in section 406(b)(2).

[(c) Notwithstanding any other provision of law, no agency which is designated as a State agency for any State under or pursuant to the Food Stamp Act of 1977, as amended, shall be regarded as having failed to comply with any requirement imposed by or pursuant to such Act solely because of the failure, of the State agency administering or supervising the administration of the State plan (approved under this part) of such State, to institute or carry out a procedure, described in subsection (a).

**[PRORATING SHELTER ALLOWANCE OF AFDC FAMILY LIVING WITH  
ANOTHER HOUSEHOLD**

**[SEC. 412.** A State plan for aid and services to needy families with children may provide that, in determining the need of any dependent child or relative claiming aid who is living with other individuals (not claiming aid together with such child or relative) as a household (as defined, for purposes of this section, by the Secretary), the amount included in the standard of need, and the payment standard, applied to such child or relative for shelter, utilities, and similar needs may be prorated on a reasonable basis, in such manner and under such circumstances as the State may determine to be appropriate. For purposes of any method of proration used by a State under this section, there shall not be included as a member of a household an individual receiving benefits under title XVI in any month to whom the one-third reduction prescribed by section 1612(a)(2)(A)(i) is applied.

**[TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT  
INFORMATION SYSTEMS**

**[SEC. 413.** The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(B) of this Act.

**[ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN**

**[SEC. 415.** (a) For purposes of determining eligibility for and the amount of benefits under a State plan approved under this part for an individual who is an alien described in clause (B) of section 402(a)(33), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such indi-

vidual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

[(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

[(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

[(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

[(i) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) \$175;

[(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living in the same household as the sponsor who are claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making a determination under section 402(a)(7);

[(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability; and

[(iv) any payments of alimony or child support with respect to individuals not living in such household.

[(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any month shall be determined as follows:

[(A) the total amount of the resources (determined as if the sponsor were applying for aid under the State plan approved under this part) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined; and

[(B) the amount determined under subparagraph (A) shall be reduced by \$1,500.

[(c)(1) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for aid under a State plan approved under this part during the period of three years after his or her entry into the United States, unless the State agency administering such plan determines that such sponsor either no longer exists or has become unable to meet such individual's needs; and such determination shall be made by the State agency based upon such criteria as it may specify in the State plan, and upon such documentary evidence as it may therein require. Any such in-

dividual, and any other individual who is an alien (as a condition of his or her eligibility for aid under a State plan approved under this part during the period of three years after his or her entry into the United States), shall be required to provide to the State agency administering such plan such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

[(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

[(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of aid under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

[(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such alien individuals) and the income and resources of each such individual shall be deemed to include one such share.

[(2) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be considered in determining the need of other family members except to the extent such income or resources are actually available to such other members.

[(f) The provisions of this section shall not apply with respect to any alien who is—

[(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;



[(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such Act;

[(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

[(4) granted political asylum by the Attorney General under section 208 of such Act; or

[(5) a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).

#### [FRAUD CONTROL

[SEC. 416. (a) Any State, in the administration of its State plan approved under section 402, may elect to establish and operate a fraud control program in accordance with this section.

[(b) Under any such program, if an individual who is a member of a family applying for or receiving aid under the State plan approved under section 402 is found by a Federal or State court or pursuant to an administrative hearing meeting requirements determined in regulations of the Secretary, on the basis of a plea of guilty or nolo contendere or otherwise, to have intentionally—

[(1) made a false or misleading statement or misrepresented, concealed, or withheld facts, or

[(2) committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity,

[for the purpose of establishing or maintaining the family's eligibility for aid under such State plan or of increasing (or preventing a reduction in) the amount of such aid, then the needs of such individual shall not be taken into account in making the determination under section 402(a)(7) with respect to his or her family (A) for a period of 6 months upon the first occasion of any such offense, (B) for a period of 12 months upon the second occasion of any such offense, and (C) permanently upon the third or a subsequent occasion of any such offense.

[(c) The State agency involved shall proceed against any individual alleged to have committed an offense described in subsection (b) either by way of administrative hearing or by referring the matter to the appropriate authorities for civil or criminal action in a court of law. The State agency shall coordinate its actions under this section with any corresponding actions being taken under the food stamp program in any case where the factual issues involved arise from the same or related circumstances.

[(d) Any period for which sanctions are imposed under subsection (b) shall remain in effect, without possibility of administrative stay, unless and until the finding upon which the sanctions were imposed is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which such sanctions are imposed be subject to review.

[(e) The sanctions provided under subsection (b) shall be in addition to, and not in substitution for, any other sanctions which may be provided for by law with respect to the offenses involved.

[(f) Each State which has elected to establish and operate a fraud control program under this section must provide all applicants for aid to families with dependent children under its ap-

proved State plan, at the time of their application for such aid, with a written notice of the penalties for fraud which are provided for under this section.

【SEC. 417. The programs under this part, part D, and part F 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.

## **【PART B—CHILD AND FAMILY SERVICES**

### **【Subpart 1—Child Welfare Services**

#### **【APPROPRIATION**

【SEC. 420. (a) For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child welfare services, there is authorized to be appropriated for each fiscal year the sum of \$325,000,000.

【(b) Funds appropriated for any fiscal year pursuant to the authorization contained in subsection (a) shall be included in the appropriation Act (or supplemental appropriation Act) for the fiscal year preceding the fiscal year for which such funds are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding the fact that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

#### **【ALLOTMENTS TO STATES**

【SEC. 421. (a) The sum appropriated pursuant to section 420 for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary as follows: He shall first allot \$70,000 to each State, and shall then allot to each State an amount which bears the same ratio to the remainder of such sum as the product of (1) the population of the State under the age of twenty-one and (2) the allotment percentage of the State (as determined under this section) bears to the sum of the corresponding products of all the States.

【(b) The “allotment percentage” for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

【(c) The allotment percentage for each State shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income

of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation.

[(d) For purposes of this section, the term "United States" means the fifty States and the District of Columbia.

[STATE PLANS FOR CHILD WELFARE SERVICES

[SEC. 422. (a) In order to be eligible for payment under this subpart, a State must have a plan for child welfare services which has been developed jointly by the Secretary and the State agency designated pursuant to subsection (b)(1), and which meets the requirements of subsection (b).

[(b) Each plan for child welfare services under this subpart shall—

[(1) provide that (A) the individual or agency that administers or supervises the administration of the State's services program under title XX will administer or supervise the administration of the plan (except as otherwise provided in section 103(d) of the Adoption Assistance and Child Welfare Act of 1980), and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering the plan, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child welfare services;

[(2) provide for coordination between the services provided for children under the plan and the services and assistance provided under title XX, under the State plan approved under part A of this title, under the State plan approved under subpart 2 of this part, under the State plan approved under part E of this title, and under other State programs having a relationship to the program under this subpart, with a view to provision of welfare and related services which will best promote the welfare of such children and their families;

[(3) provide that the standards and requirements imposed with respect to child day care under title XX shall apply with respect to day care services under this part, except insofar as eligibility for such services is involved;

[(4) provide for the training and effective use of paid paraprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan, and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency;

[(5) contain a description of the services to be provided and specify the geographic areas where such services will be available;

[(6) contain a description of the steps which the State will take to provide child welfare services and to make progress in—

[(A) covering additional political subdivisions,

[(B) reaching additional children in need of services, and

[(C) expanding and strengthening the range of existing services and developing new types of services, along with a description of the State's child welfare services staff development and training plans;

[(7) provide, in the development of services for children, for utilization of the facilities and experience of voluntary agencies in accordance with State and local programs and arrangements, as authorized by the State;

[(8) provide that the agency administering or supervising the administration of the plan will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require;

[(9) provide assurances that the State—

[(A) since June 17, 1980, has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

[(i) the appropriateness of, and necessity for, the foster care placement;

[(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

[(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

[(B) is operating, to the satisfaction of the Secretary—

[(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

[(ii) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State;

[(iii) a service program designed to help children—

[(I) where appropriate, return to families from which they have been removed; or

[(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

[(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain with their families; and

[(C)(i) has reviewed (or within 12 months after the date of the enactment of this paragraph will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

[(ii) is implementing (or within 24 months after the date of the enactment of this paragraph will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children; and [(10) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act.

#### [PAYMENT TO STATES

[SEC. 423. (a) From the sums appropriated therefor and the allotment under this subpart, subject to the conditions set forth in this section and in section 427, the Secretary shall from time to time pay to each State that has a plan developed in accordance with section 422 an amount equal to 75 per centum of the total sum expended under the plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child welfare services.

[(b) The method of computing and making payments under this section shall be as follows:

[(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of this section.

[(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

[(c)(1) No payment may be made to a State under this part, for any fiscal year beginning after September 30, 1979, with respect to State expenditures made for (A) child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, (B) foster care maintenance payments, and (C) adoption assistance payments, to the extent that the Federal payment with respect to those expenditures would exceed the total amount of the Federal payment under this part for fiscal year 1979.

[(2) Expenditures made by a State for any fiscal year which begins after September 30, 1979, for foster care maintenance payments shall be treated for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care maintenance payments constituted child welfare services of a type to which the limitation imposed by paragraph (1) does not apply; except that the amount payable to the State with respect to expenditures made for other child welfare services and for foster care maintenance payments during any such year shall not exceed 100 per centum of the amount of the expendi-

tures made for child welfare services for which payment may be made under the limitation imposed by paragraph (1) as in effect without regard to this paragraph.

[(d) No payment may be made to a State under this part in excess of the payment made under this part for fiscal year 1979, for any fiscal year beginning after September 30, 1979, if for the latter fiscal year the total of the State's expenditures for child welfare services under this part (excluding expenditures for activities specified in subsection (c)(1)) is less than the total of the State's expenditures under this part (excluding expenditures for such activities) for fiscal year 1979.

#### 【REALLOTMENT

【SEC. 424. (a) IN GENERAL.—Subject to subsection (b), the amount of any allotment to a State under section 421 for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in section 422 shall be available for reallocation from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under section 421 and (2) will be able to use such excess amounts during such fiscal year. Such reallocations shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallocated to a State shall be deemed part of its allotment under section 421.

【(b) EXCEPTION RELATING TO FOSTER CHILD PROTECTIONS.—The Secretary shall not reallocate under subsection (a) of this section any amount that is withheld or recovered from a State due to the failure of the State to meet the requirements of section 422(b)(9).

#### 【DEFINITIONS

【Sec. 425. (a)(1) For purposes of this title, the term “child welfare services” means public social services which are directed toward the accomplishment of the following purposes: (A) protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; (B) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; (C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (D) restoring to their families children who have been removed, by the provision of services to the child and the families; (E) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (F) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.

[(2) Funds expended by a State for any calendar quarter to comply with the statistical report required by section 476(b), and funds expended with respect to nonrecurring costs of adoption proceedings in the case of children placed for adoption with respect to whom assistance is provided under a State plan for adoption assistance approved under part E of this title, shall be deemed to have been expended for child welfare services.

[(b) For other definitions relating to this part and to part E of this title, see section 475 of this Act.

[RESEARCH, TRAINING, OR DEMONSTRATION PROJECTS

[SEC. 426. (a) There are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine—

[(1) for grants by the Secretary—

[(A) to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or child-welfare activities, for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of child welfare;

[(B) to State or local public agencies responsible for administering, or supervising the administration of, the plan under this part, for projects for the demonstration of the utilization of research (including findings resulting therefrom) in the field of child welfare in order to encourage experimental and special types of welfare services; and

[(C) to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of child welfare, including traineeships described in section 429 with such stipends and allowances as may be permitted by the Secretary; and

[(2) for contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research, special projects, or demonstration projects relating to such matters.

[(b)(1) There are authorized to be appropriated \$4,000,000 for each of the fiscal years 1988, 1989, and 1990 for grants by the Secretary to public or private nonprofit entities submitting applications under this subsection for the purpose of conducting demonstration projects under this subsection to develop alternative care arrangements for infants who do not have health conditions that require hospitalization and who would otherwise remain in inappropriate hospital settings.

[(2) The demonstration projects conducted under this section may include—

[(A) multidisciplinary projects designed to prevent the inappropriate hospitalization of infants and to allow infants described in paragraph (1) to remain with or return to a parent in a residential setting, where appropriate care for the infant and suitable treatment for the parent (including treatment for drug or alcohol addiction) may be assured, with the goal

(where possible) of rehabilitating the parent and eliminating the need for such care for the infant;

[(B) multidisciplinary projects that assure appropriate, individualized care for such infants in a foster home or other non-medical residential setting in cases where such infant does not require hospitalization and would otherwise remain in inappropriate hospital settings, including projects to demonstrate methods to recruit, train, and retain foster care families; and

[(C) such other projects as the Secretary determines will best serve the interests of such infants and will serve as models for projects that agencies or organizations in other communities may wish to develop.

[(3) In the case of any project which includes the use of funds authorized under this subsection for the care of infants in foster homes or other non-medical residential settings away from their parents, there shall be developed for each such infant a case plan of the type described in section 475(1) (to the extent that such infant is not otherwise covered by such a plan), and each such project shall include a case review system of the type described in section 475(5) (covering each such infant who is not otherwise subject to such a system).

[(4) In evaluating applications from entities proposing to conduct demonstration projects under this subsection, the Secretary shall give priority to those projects that serve areas most in need of alternative care arrangements for infants described in paragraph (1).

[(5) No project may be funded unless the application therefor contains assurances that it will—

[(A) provide for adequate evaluation;

[(B) provide for coordination with local governments;

[(C) provide for community education regarding the inappropriate hospitalization of infants;

[(D) use, to the extent practical, other available private, local, State, and Federal sources for the provision of direct services; and

[(E) meet such other criteria as the Secretary may prescribe.

[(6) Grants may be used to pay the costs of maintenance and of necessary medical and social services (to the extent that these costs are not otherwise paid for under other titles of this Act), and for such other purposes as the Secretary may allow.

[(7) The Secretary shall provide training and technical assistance to grantees, as requested.

[(c) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

#### [PAYMENTS TO INDIAN TRIBAL ORGANIZATIONS

[SEC. 428. (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this subpart directly to an Indian tribal organization within any State which has



a plan for child welfare services approved under this subpart. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

[(b) Amounts paid under subsection (a) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

[(c) For purposes of this section—

[(1) the term “tribal organization” means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body; and

[(2) the term “Indian tribe” means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92–203; 85 Stat. 688)) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.

#### [(CHILD WELFARE TRAINEESHIPS

[SEC. 429. The Secretary may approve an application for a grant to a public or nonprofit institution for higher learning to provide traineeships with stipends under section 426(a)(1)(C) only if the application—

[(1) provides assurances that each individual who receives a stipend with such traineeship (in this section referred to as a “recipient”) agrees—

[(A) to participate in training at a public or private nonprofit child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

[(B) to be employed for a period of years equivalent to the period of the traineeship, in a public or private nonprofit child welfare agency in any State, within a period of time (determined by the Secretary in accordance with regulations) after completing the postsecondary education for which the traineeship was awarded;

[(C) to furnish to the institution and the Secretary evidence of compliance with subparagraphs (A) and (B); and

[(D) if the recipient fails to comply with subparagraph (A) or (B) and does not qualify for any exception to this subparagraph which the Secretary may prescribe in regulations, to repay to the Secretary all (or an appropriately prorated part) of the amount of the stipend, plus interest, and, if applicable, reasonable collection fees (in accordance with regulations promulgated by the Secretary);

[(2) provides assurances that the institution will—

[(A) enter into agreements with child welfare agencies for onsite training of recipients;

[(B) permit an individual who is employed in the field of child welfare services to apply for a traineeship with a

stipend if the traineeship furthers the progress of the individual toward the completion of degree requirements; and

[(C) develop and implement a system that, for the 3-year period that begins on the date any recipient completes a child welfare services program of study, tracks the employment record of the recipient, for the purpose of determining the percentage of recipients who secure employment in the field of child welfare services and remain employed in the field.

## **[Subpart 2—Family Preservation and Support Services**

### **[SEC. 430. PURPOSES; LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS.**

[(a) PURPOSES; LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the purpose of encouraging and enabling each State to develop and establish, or expand, and to operate a program of family preservation services and community-based family support services, there are authorized to be appropriated to the Secretary the amounts described in subsection (b) for the fiscal years specified in subsection (b).

[(b) DESCRIPTION OF AMOUNTS.—The amount described in this subsection is—

- [(1) for fiscal year 1994, \$60,000,000;
- [(2) for fiscal year 1995, \$150,000,000;
- [(3) for fiscal year 1996, \$225,000,000;
- [(4) for fiscal year 1997, \$240,000,000; or
- [(5) for fiscal year 1998, the greater of—

[(A) \$255,000,000; or

[(B) the amount described in this subsection for fiscal year 1997, increased by the inflation percentage applicable to fiscal year 1998.

[(c) INFLATION PERCENTAGE.—For purposes of subsection (b)(5)(B) of this section, the inflation percentage applicable to any fiscal year is the percentage (if any) by which—

[(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on December 31 of the immediately preceding fiscal year; exceeds

[(2) the average of the Consumer Price Index (as so defined) for the 12-month period ending on December 31 of the 2nd preceding fiscal year.

[(d) RESERVATION OF CERTAIN AMOUNTS.—

[(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve \$2,000,000 of the amount described in subsection (b) for fiscal year 1994, and \$6,000,000 of the amounts so described for each of fiscal years 1995, 1996, 1997, and 1998, for expenditure by the Secretary—

[(A) for research, training, and technical assistance related to the program under this subpart; and

[(B) for evaluation of State programs funded under this subpart and any other Federal, State, or local program, regardless of whether federally assisted, that is de-

signed to achieve the same purposes as the program under this subpart.

[(2) STATE COURT ASSESSMENTS.—The Secretary shall reserve \$5,000,000 of the amount described in subsection (b) for fiscal year 1995, and \$10,000,000 of the amounts so described for each of fiscal years 1996, 1997, and 1998, for grants under section 13712 of the Omnibus Budget Reconciliation Act of 1993.

[(3) INDIAN TRIBES.—The Secretary shall reserve 1 percent of the amounts described in subsection (b) for each fiscal year, for allotment to Indian tribes in accordance with section 433(a).

**[SEC. 431. DEFINITIONS.**

[(a) IN GENERAL.—As used in this subpart:

[(1) FAMILY PRESERVATION SERVICES.—The term “family preservation services” means services for children and families designed to help families (including adoptive and extended families) at risk or in crisis, including—

[(A) service programs designed to help children—

[(i) where appropriate, return to families from which they have been removed; or

[(ii) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

[(B) preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain with their families;

[(C) service programs designed to provide followup care to families to whom a child has been returned after a foster care placement;

[(D) respite care of children to provide temporary relief for parents and other caregivers (including foster parents); and

[(E) services designed to improve parenting skills (by reinforcing parents’ confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition.

[(2) FAMILY SUPPORT SERVICES.—The term “family support services” means community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents’ confidence and competence in their parenting abilities, to afford children a stable and supportive family environment, and otherwise to enhance child development.

[(3) STATE AGENCY.—The term “State agency” means the State agency responsible for administering the program under subpart 1.

[(4) STATE.—The term “State” includes an Indian tribe or tribal organization, in addition to the meaning given such term for purposes of subpart 1.

[(5) TRIBAL ORGANIZATION.—The term “tribal organization” means the recognized governing body of any Indian tribe.

[(6) INDIAN TRIBE.—The term “Indian tribe” means any Indian tribe (as defined in section 482(i)(5)) and any Alaska Native organization (as defined in section 482(i)(7)(A)).

[(b) OTHER TERMS.—For other definitions of other terms used in this subpart, see section 475.

**[SEC. 432. STATE PLANS.**

[(a) PLAN REQUIREMENTS.—A State plan meets the requirements of this subsection if the plan—

[(1) provides that the State agency shall administer, or supervise the administration of, the State program under this subpart;

[(2)(A)(i) sets forth the goals intended to be accomplished under the plan by the end of the 5th fiscal year in which the plan is in operation in the State, and (ii) is updated periodically to set forth the goals intended to be accomplished under the plan by the end of each 5th fiscal year thereafter;

[(B) describes the methods to be used in measuring progress toward accomplishment of the goals;

[(C) contains assurances that the State—

[(i) after the end of each of the 1st 4 fiscal years covered by a set of goals, will perform an interim review of progress toward accomplishment of the goals, and on the basis of the interim review will revise the statement of goals in the plan, if necessary, to reflect changed circumstances; and

[(ii) after the end of the last fiscal year covered by a set of goals, will perform a final review of progress toward accomplishment of the goals, and on the basis of the final review (I) will prepare, transmit to the Secretary, and make available to the public a final report on progress toward accomplishment of the goals, and (II) will develop (in consultation with the entities required to be consulted pursuant to subsection (b)) and add to the plan a statement of the goals intended to be accomplished by the end of the 5th succeeding fiscal year;

[(3) provides for coordination, to the extent feasible and appropriate, of the provision of services under the plan and the provision of services or benefits under other Federal or federally assisted programs serving the same populations;

[(4) contains assurances that not more than 10 percent of expenditures under the plan for any fiscal year with respect to which the State is eligible for payment under section 434 for the fiscal year shall be for administrative costs, and that the remaining expenditures shall be for programs of family preservation services and community-based family support services with significant portions of such expenditures for each such program;

[(5) contains assurances that the State will—

[(A) annually prepare, furnish to the Secretary, and make available to the public a description (including separate descriptions with respect to family preservation services and community-based family support services) of—

[(i) the service programs to be made available under the plan in the immediately succeeding fiscal year;

[(ii) the populations which the programs will serve; and

[(iii) the geographic areas in the State in which the services will be available; and

[(B) perform the activities described in subparagraph

(A)—

[(i) in the case of the 1st fiscal year under the plan, at the time the State submits its initial plan; and

[(ii) in the case of each succeeding fiscal year, by the end of the 3rd quarter of the immediately preceding fiscal year;

[(6) provides for such methods of administration as the Secretary finds to be necessary for the proper and efficient operation of the plan;

[(7)(A) contains assurances that Federal funds provided to the State under this subpart will not be used to supplant Federal or non-Federal funds for existing services and activities which promote the purposes of this subpart; and

[(B) provides that the State will furnish reports to the Secretary, at such times, in such format, and containing such information as the Secretary may require, that demonstrate the State's compliance with the prohibition contained in subparagraph (A); and

[(8) provides that the State agency will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require.

[(b) APPROVAL OF PLANS.—

[(1) IN GENERAL.—The Secretary shall approve a plan that meets the requirements of subsection (a) only if the plan was developed jointly by the Secretary and the State, after consultation by the State agency with appropriate public and non-profit private agencies and community-based organizations with experience in administering programs of services for children and families (including family preservation and family support services).

[(2) PLANS OF INDIAN TRIBES.—

[(A) EXEMPTION FROM INAPPROPRIATE REQUIREMENTS.—The Secretary may exempt a plan submitted by an Indian tribe from any requirement of this section that the Secretary determines would be inappropriate to apply to the Indian tribe, taking into account the resources, needs, and other circumstances of the Indian tribe.

[(B) SPECIAL RULE.—Notwithstanding subparagraph (A) of this paragraph, the Secretary may not approve a plan of an Indian tribe under this subpart to which (but for this subparagraph) an allotment of less than \$10,000

would be made under section 433(a) if allotments were made under section 433(a) to all Indian tribes with plans approved under this subpart with the same or larger numbers of children.

**[SEC. 433. ALLOTMENTS TO STATES.**

[(a) INDIAN TRIBES.—From the amount reserved pursuant to section 430(d)(3) for any fiscal year, the Secretary shall allot to each Indian tribe with a plan approved under this subpart an amount that bears the same ratio to such reserved amount as the number of children in the Indian tribe bears to the total number of children in all Indian tribes with State plans so approved, as determined by the Secretary on the basis of the most current and reliable information available to the Secretary.

[(b) TERRITORIES.—From the amount described in section 430(b) for any fiscal year that remains after applying section 430(d) for the fiscal year, the Secretary shall allot to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 421.

[(c) OTHER STATES.—

[(1) IN GENERAL.—From the amount described in section 430(b) for any fiscal year that remains after applying section 430(d) and subsection (b) of this section for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) which is not specified in subsection (b) of this section an amount equal to such remaining amount multiplied by the food stamp percentage of the State for the fiscal year.

[(2) FOOD STAMP PERCENTAGE DEFINED.—

[(A) IN GENERAL.—As used in paragraph (1) of this subsection, the term “food stamp percentage” means, with respect to a State and a fiscal year, the average monthly number of children receiving food stamp benefits in the State for months in the 3 fiscal years referred to in subparagraph (B) of this paragraph, as determined from sample surveys made under section 16(c) of the Food Stamp Act of 1977, expressed as a percentage of the average monthly number of children receiving food stamp benefits in the States described in such paragraph (1) for months in such 3 fiscal years, as so determined.

[(B) FISCAL YEARS USED IN CALCULATION.—For purposes of the calculation pursuant to subparagraph (A), the Secretary shall use data for the 3 most recent fiscal years, preceding the fiscal year for which the State’s allotment is calculated under this subsection, for which such data are available to the Secretary.

**[SEC. 434. PAYMENTS TO STATES.**

[(a) ENTITLEMENT.—

[(1) GENERAL RULE.—Except as provided in paragraph (2) of this subsection, each State which has a plan approved under this subpart shall be entitled to payment of the lesser of—

[(A) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

[(B) the allotment of the State under section 433 for the fiscal year.

[(2) SPECIAL RULE.—Upon submission by a State to the Secretary during fiscal year 1994 of an application in such form and containing such information as the Secretary may require (including, if the State is seeking payment of an amount pursuant to subparagraph (B) of this paragraph, a description of the services to be provided with the amount), the State shall be entitled to payment of an amount equal to the sum of—

[(A) such amount, not exceeding \$1,000,000, from the allotment of the State under section 433 for fiscal year 1994, as the State may require to develop and submit a plan for approval under section 432; and

[(B) an amount equal to the lesser of—

[(i) 75 percent of the expenditures by the State for services to children and families in accordance with the application and the expenditure rules of section 432(a)(4); or

[(ii) the allotment of the State under section 433 for fiscal year 1994, reduced by any amount paid to the State pursuant to subparagraph (A) of this paragraph.

[(b) PROHIBITIONS.—

[(1) NO USE OF OTHER FEDERAL FUNDS FOR STATE MATCH.—Each State receiving an amount paid under paragraph (1) or (2)(B) of subsection (a) may not expend any Federal funds to meet the costs of services described in this subpart not covered by the amount so paid.

[(2) AVAILABILITY OF FUNDS.—A State may not expend any amount paid under subsection (a)(1) for any fiscal year after the end of the immediately succeeding fiscal year.

[(c) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS OF INDIAN TRIBES.—The Secretary shall pay any amount to which an Indian tribe is entitled under this section directly to the tribal organization of the Indian tribe.

**[SEC. 435. EVALUATIONS.]**<sup>20</sup> [(a) EVALUATIONS.—

[(1) IN GENERAL.—The Secretary shall evaluate the effectiveness of the programs carried out pursuant to this subpart in accomplishing the purposes of this subpart, and may evaluate any other Federal, State, or local program, regardless of whether federally assisted, that is designed to achieve the same purposes as the program under this subpart, in accordance with criteria established in accordance with paragraph (2).

[(2) CRITERIA TO BE USED.—In developing the criteria to be used in evaluations under paragraph (1), the Secretary shall consult with appropriate parties, such as—

[(A) State agencies administering programs under this part and part E;

[(B) persons administering child and family services programs (including family preservation and family sup-

port programs) for private, nonprofit organizations with an interest in child welfare; and

[(C) other persons with recognized expertise in the evaluation of child and family services programs (including family preservation and family support programs) or other related programs.

[(b) COORDINATION OF EVALUATIONS.—The Secretary shall develop procedures to coordinate evaluations under this section, to the extent feasible, with evaluations by the States of the effectiveness of programs under this subpart.]

## **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 (including provision of education and counseling (including abstinence-based programs) and pre-pregnancy health services) 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.*

(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.*

(iii) *The document shall set forth objective criteria for the delivery of benefits and the determination of eligibility and for fair and equitable treatment, including an explanation of how the State will provide opportunities for recipients who have been adversely affected to be heard in a State administrative or appeal process.*

(2) *CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.*

(3) *CERTIFICATION THAT THE STATE WILL OPERATE A CHILD PROTECTION PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child protection program under the State plan approved under part B.*

(4) *CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations—*

*(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and*

*(B) have had at least 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.

(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)  $\frac{1}{3}$  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)  $\frac{4}{3}$  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 1997 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 1998, 1999, and 2000, a grant in an amount equal to the sum of—

(I) the amount (if any) required to be paid to the State under this paragraph for the immediately preceding fiscal year; and

(II) 2.5 percent of the sum of—

(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.

(ii) *STATE MUST QUALIFY IN FISCAL YEAR 1997.*—Notwithstanding clause (i), a State shall not be a qualifying State for any fiscal year after 1997 by reason of clause (i) if the State is not a qualifying State for fiscal year 1997 by reason of clause (i).

(iii) *CERTAIN STATES DEEMED QUALIFYING STATES.*—For purposes of this paragraph, a State is deemed to be a qualifying State for fiscal years 1997, 1998, 1999, and 2000 if—

(I) the level of welfare spending per poor person by the State for fiscal year 1996 is less than 35 percent of the national average level of State welfare spending per poor person for fiscal year 1996; or

(II) the population of the State increased by more than 10 percent from April 1, 1990 to July 1, 1994, 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 1997, 1998, 1999, and 2000 such sums as are necessary for grants under this paragraph, in a total amount not to exceed \$800,000,000.

(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).

(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 \$200,000,000; 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) *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 1997, 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  $\frac{1}{12}$  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 1997 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)  $\frac{1}{12}$  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 subtitles D and J of the Personal Responsibility and Work Opportunity 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 subtitles D and J of the Personal

*Responsibility and Work Opportunity 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 any or all of the following provisions of law:

(A) Part B or E of this title.

(B) Title XX of this Act.

(C) The Child Care and Development Block Grant Act of 1990.

(2) *APPLICABLE RULES.*—Any amount paid to the State under this part that is used to carry out a State program pursuant to a provision of law specified 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 pro-

vided 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:

<b>If the fiscal year is:</b>	<b>The minimum participation rate is:</b>
1996 .....	15
1997 .....	20
1998 .....	25
1999 .....	30
2000 .....	35
2001 .....	40
2002 or thereafter .....	50.

(2) **2-PARENT FAMILIES.**—A State to which a grant is made under section 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:

<b>If the fiscal year is:</b>	<b>The minimum participation rate is:</b>
1996 .....	50
1997 .....	75
1998 .....	75
1999 or thereafter .....	90.

(b) **CALCULATION OF PARTICIPATION RATES.**—

(1) **ALL FAMILIES.**—

(A) **AVERAGE MONTHLY RATE.**—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

(B) **MONTHLY PARTICIPATION RATES.**—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

(i) the number of families receiving assistance under the State program funded under this part that include an adult who is engaged in work for the month; divided by

(ii) the amount by which—

(I) the number of families receiving such assistance during the month that include an adult receiving such assistance; exceeds

(II) the number of families receiving such assistance that are subject in such month to a 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 option, include families receiving assistance under a tribal family assistance plan approved under section 412.

(5) *STATE OPTION FOR PARTICIPATION REQUIREMENT EXEMPTIONS.*—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).

(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):

<i>If the month is in fiscal year:</i>	<i>The minimum average number of hours per week is:</i>
1996 .....	20
1997 .....	20
1998 .....	20
1999 or thereafter .....	25.

(2) *2-PARENT FAMILIES.*—For purposes of subsection (b)(2)(B)(i), an adult is engaged in work for a month in a fiscal year if the adult is making progress in 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).

(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 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.**—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 6 years of age, and the adult proves that the adult has a demonstrated inability (as determined by the State) to obtain needed child care, for 1 or more of the following reasons:*

*(A) Unavailability of appropriate child care within a reasonable distance from the individual's home or work site.*

*(B) Unavailability or unsuitability of informal child care by a relative or under other arrangements.*

*(C) Unavailability of appropriate and affordable formal child care arrangements.*

**(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 adult in a work activity described in subsection (d) which is funded, in whole or in part, by funds provided by the Federal Government shall be employed or assigned—*

*(A) when any other individual is on layoff from the same or any substantially equivalent job; or*

*(B) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult described in paragraph (1).*

*(3) 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, unless the family includes—*

*(A) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or*

*(B) a pregnant individual.*

(2) *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 VOUCHERS.*—Subparagraph (A) shall not apply to vouchers which are provided in lieu of cash benefits and which may be used only to pay for particular goods and services specified by the State as suitable for the care of the child involved.

(D) *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.

(E) *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).

(F) *SUBSTITUTION OF FAMILY CAPS IN EFFECT UNDER WAIVERS.*—Subparagraph (A) shall not apply to a State—

(i) if, as of the date of the enactment of this part, there is 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 subtitle A 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) for so long as the State continues to implement such policy under the State program funded under this part, under rules prescribed by the State.

(3) *REDUCTION OR ELIMINATION OF ASSISTANCE FOR NON-COOPERATION 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 from the assistance that would otherwise be provided to the family of the individual under the State program funded under this part the share of such assistance attributable to the individual; and

(B) may deny the family any assistance under the State program.

(4) *NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.*—

(A) *IN GENERAL.*—A State to which a grant is made under section 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 guard-

ian, 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, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a 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) 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) 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) INCOME SECURITY PAYMENTS NOT TO BE DISREGARDED IN DETERMINING THE AMOUNT OF ASSISTANCE TO BE PROVIDED TO A FAMILY.—***If a State to which a grant is made under section 403 uses any part of the grant to provide assistance for any individual who is receiving benefits, or on behalf of whom benefits are paid, under a State plan for old-age assistance approved under section 2, under section 202, 205(j)(1), 223, or 228, under a State program funded under part E that provides cash payments for foster care, or under the supplemental security income program under title XVI, then the State may disregard the payment in determining the amount of assistance to*

be provided under the State program funded under this part, from funds provided by the Federal Government, to the family of which the individual is a member.

(13) *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 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 increased earnings from employment or as a result of the collection or increased collection of child or spousal support, or a combination thereof, having 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.

(14) *MEDICAL ASSISTANCE REQUIRED TO BE PROVIDED FOR ALL RECIPIENTS OF ASSISTANCE UNDER THIS PART.*—A State to which a grant is made under section 403 shall take such action as may be necessary to ensure that each recipient of assistance under the State program funded under this part is eligible for medical assistance under the State's plan approved under title XIX (or, if applicable, title XV) to the extent that the health care costs of the recipient are not covered by other health insurance.

(b) *ALIENS.*—For special rules relating to the treatment of aliens, see section 4402 of the Personal Responsibility and Work Opportunity Act of 1996.

#### **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.

(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 required 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) the 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 this part; 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 the expenditures.*

**(III) ELIGIBLE FAMILIES.**—*As used in subclause (I), the term “eligible families” means fami-*

*lies 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 4402 of the Personal Responsibility and Work Opportunity Act of 1996.*

(ii) *APPLICABLE PERCENTAGE.*—*The term “applicable percentage” means for fiscal years 1997 through 2001, 75 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 (8)(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 EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.**—*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.*

**(11) FAILURE TO PROVIDE MEDICAL ASSISTANCE TO FAMILIES BECOMING INELIGIBLE FOR ASSISTANCE UNDER THIS PART DUE TO INCREASED EARNINGS FROM EMPLOYMENT OR COLLECTION OF CHILD SUPPORT.**—

**(A) IN GENERAL.**—*If the Secretary determines that a State program funded under this part is not in compliance with section 408(a)(13) for a 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 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.*

**(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 (7), (8), or (11) 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 correct 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 subpara-*

graph (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 pro-*



*vide 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. 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.*

**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, and 2000, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under subparagraph (B), and shall reduce the grant payable under section 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 man-

ner 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 es-

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 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) REPORT ON CIRCUMSTANCES OF CERTAIN CHILDREN AND FAMILIES.—*

*(1) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committees on Ways and Means and on Economic and Educational Opportunities of the House of Representatives and to the Committees on Finance and on Labor and Resources of the Senate annual reports that examine in detail the matters described in paragraph (2) with respect to each of the following groups for the period after such enactment:*

(A) *Individuals who were children in families that have become ineligible for assistance under a State program funded under this part by reason of having reached a time limit on the provision of such assistance.*

(B) *Families that include a child who is ineligible for assistance under a State program funded under this part by reason of section 408(a)(2).*

(C) *Children born after such date of enactment to parents who, at the time of such birth, had not attained 20 years of age.*

(D) *Individuals who, after such date of enactment, became parents before attaining 20 years of age.*

(2) *MATTERS DESCRIBED.*—The matters described in this paragraph are the following:

(A) *The percentage of each group that has dropped out of secondary school (or the equivalent), and the percentage of each group at each level of educational attainment.*

(B) *The percentage of each group that is employed.*

(C) *The percentage of each group that has been convicted of a crime or has been adjudicated as a delinquent.*

(D) *The rate at which the members of each group are born, or have children, out-of-wedlock, and the percentage of each group that is married.*

(E) *The percentage of each group that continues to participate in State programs funded under this part.*

(F) *The percentage of each group that has health insurance provided by a private entity (broken down by whether the insurance is provided through an employer or otherwise), the percentage that has health insurance provided by an agency of government, and the percentage that does not have health insurance.*

(G) *The average income of the families of the members of each group.*

(H) *Such other matters as the Secretary deems appropriate.*

(h) *FUNDING OF STUDIES AND DEMONSTRATIONS.*—

(1) *IN GENERAL.*—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$15,000,000 for each fiscal year specified in section 403(a)(1) for the purpose of paying—

(A) *the cost of conducting the research described in subsection (a);*

(B) *the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b);*

(C) *the Federal share of any State-initiated study approved under subsection (f); and*

(D) *an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to this part, that are in effect or approved under section 1115 as of September 30, 1995, and are continued after such date.*

(2) *ALLOCATION.*—Of the amount appropriated under paragraph (1) for a fiscal year—

(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

(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 subtitle A 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 1996, 1997, 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, 1995) 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 4103(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, 1995) 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 4103(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. ASSISTANT SECRETARY FOR FAMILY SUPPORT.**

The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.

**SEC. 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.



**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 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. 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*.—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.

## **PART B—BLOCK GRANTS TO STATES FOR THE PROTECTION OF CHILDREN**

### **SEC. 421. PURPOSE.**

The purpose of this part is to enable eligible States to carry out a child protection program to—

(1) identify and assist families at risk of abusing or neglecting their children;

(2) operate a system for receiving reports of abuse or neglect of children;

(3) improve the intake, assessment, screening, and investigation of reports of abuse and neglect;

(4) enhance the general child protective system by improving risk and safety assessment tools and protocols;

(5) improve legal preparation and representation, including procedures for appealing and responding to appeals of substantiated reports of abuse and neglect;

(6) provide support, treatment, and family preservation services to families which are, or are at risk of, abusing or neglecting their children;

(7) support children who must be removed from or who cannot live with their families;

(8) make timely decisions about permanent living arrangements for children who must be removed from or who cannot live with their families;

(9) provide for continuing evaluation and improvement of child protection laws, regulations, and services;

(10) develop and facilitate training protocols for individuals mandated to report child abuse or neglect; and

(11) develop and enhance the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

**SEC. 422. ELIGIBLE STATES.**

(a) *IN GENERAL.*—As used in this part, the term ‘eligible State’ means a State that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:

(1) *OUTLINE OF CHILD PROTECTION PROGRAM.*—A written document that outlines the activities the State intends to conduct to achieve the purpose of this part, including the procedures to be used for—

(A) receiving and assessing reports of child abuse or neglect;

(B) investigating such reports;

(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;

(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;

(F) protecting children in foster care;

(G) promoting timely adoptions;

(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards; and

(I) providing services to individuals, families, or communities, either directly or through referral, that are aimed at preventing the occurrence of child abuse and neglect.

(2) *CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.*—A certification that the State has in effect laws that require public officials and other

*professionals to report, in good faith, actual or suspected instances of child abuse or neglect.*

(3) *CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.*

(4) *CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.*

(5) *CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.—A certification that the State has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.*

(6) *CERTIFICATION OF PROVISIONS AND PROCEDURES RELATING TO APPEALS.—A certification that not later than 2 years after the date of the enactment of this part, the State shall have laws and procedures in effect affording individuals an opportunity to appeal an official finding of abuse or neglect.*

(7) *CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.*

(8) *CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.*

(9) *CERTIFICATION OF STATE PROCEDURES TO RESPOND TO REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—*

(A) *IN GENERAL.—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—*

(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

(iii) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

(B) *WITHHOLDING OF MEDICALLY INDICATED TREATMENT.*—As used in subparagraph (A), the term ‘withholding of medically indicated treatment’ means the failure to respond to the infant’s life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that such term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment—

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of such treatment would—

(I) merely prolong dying;

(II) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or

(III) otherwise be futile in terms of the survival of the infant; or

(iii) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

(10) *IDENTIFICATION OF CHILD PROTECTION GOALS.*—The quantitative goals of the State child protection program.

(11) *CERTIFICATION OF CHILD PROTECTION STANDARDS.*—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—

(A) has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

(i) the appropriateness of, and necessity for, the foster care placement;

(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

(B) is operating, to the satisfaction of the Secretary—

(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

(ii) a case review system for each child receiving foster care under the supervision of the State;

(iii) a service program designed to help children—

(I) where appropriate, return to families from which they have been removed; or

(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

(iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and

(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.

(12) **CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.**—A certification that the State in each case will—

(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child's home, and to make it possible for the child to return home; and

(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children where the State makes a determination that the child may safely remain with the family.

(13) **CERTIFICATION OF COOPERATIVE EFFORTS.**—A certification by the State, where appropriate, that all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under part E.

(14) **CERTIFICATION OF CONFIDENTIALITY AND REQUIREMENTS FOR INFORMATION DISCLOSURE.**—

(A) **IN GENERAL.**—A certification that the State has in effect and operational—

(i) requirements ensuring that reports and records made and maintained pursuant to the purposes of this part shall only be made available to—

(I) individuals who are the subject of the report;

(II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out their responsibilities under law to protect children from abuse and neglect;

(III) child abuse citizen review panels;

(IV) child fatality review panels;

(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose; and

(ii) provisions that allow for public disclosure of the findings or information about cases of child abuse or neglect that have resulted in a child fatality or near fatality.

(B) *LIMITATION.*—Disclosures made pursuant to clause (i) or (ii) shall not include the identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect.

(C) *DEFINITION.*—For purposes of this paragraph, the term ‘near fatality’ means an act that, as certified by a physician, places the child in serious or critical condition.

(b) *DETERMINATIONS.*—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a), other than the material described in paragraph (9) of such subsection. The Secretary may not require a State to include in such a plan any material not described in subsection (a).

#### **SEC. 423. GRANTS TO STATES FOR CHILD PROTECTION.**

(a) *FUNDING OF BLOCK GRANTS.*—

(1) *ENTITLEMENT COMPONENT.*—

(A) *ELIGIBLE STATES.*—Each eligible State shall be entitled to receive from the Secretary for each fiscal year specified in subsection (b)(1) a grant in an amount equal to the State share of 99 percent of the child protection amount for the fiscal year.

(B) *INDIAN TRIBES AND TRIBAL ORGANIZATIONS.*—The Secretary shall reserve for payments to Indian tribes (as defined in section 658P(7) of the Child Care and Development Block Grant Act of 1990) and tribal organizations (as defined in section 658P(14) of such Act) for each fiscal year specified in subsection (b)(1) an amount equal to 1 percent of the child protection amount for the fiscal year.

(2) *AUTHORIZATION COMPONENT.*—

(A) *IN GENERAL.*—



(i) *ELIGIBLE STATES.*—For each eligible State for each fiscal year specified in subsection (b)(1), the Secretary shall supplement the grant under paragraph (1)(A) of this subsection by an amount equal to the State share of 99.64 percent of the amount (if any) appropriated pursuant to subparagraph (B) of this paragraph for the fiscal year.

(ii) *INDIAN TRIBES AND TRIBAL ORGANIZATIONS.*—The Secretary shall supplement the amount reserved for payments pursuant to paragraph (1)(B) of this subsection for each fiscal year specified in subsection (b)(1), by an amount equal to 0.36 percent of the amount (if any) appropriated pursuant to subparagraph (B) of this paragraph for the fiscal year.

(B) *LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.*—For grants under subparagraph (A), there are authorized to be appropriated to the Secretary an amount not to exceed \$325,000,000 for each fiscal year specified in subsection (b)(1).

(b) *DEFINITIONS.*—As used in this section:

(1) *CHILD PROTECTION AMOUNT.*—The term ‘child protection amount’ means—

- (A) \$240,000,000 for fiscal year 1997;
- (B) \$255,000,000 for fiscal year 1998;
- (C) \$262,000,000 for fiscal year 1999;
- (D) \$270,000,000 for fiscal year 2000;
- (E) \$278,000,000 for fiscal year 2001; and
- (F) \$286,000,000 for fiscal year 2002;

(2) *STATE SHARE.*—

(A) *IN GENERAL.*—The term ‘State share’ means the qualified child protection expenses of the State divided by the sum of the qualified child protection expenses of all of the States.

(B) *QUALIFIED CHILD PROTECTION EXPENSES.*—The term “qualified child protection expenses” means, with respect to a State the greater of—

(i) the total amount of one-third of the Federal grant amounts to the State under the provisions of law specified in clauses (i) and (ii) of subparagraph (C) for fiscal years 1992, 1993, and 1994; or

(ii) the total amount of the Federal grant amounts to the State under the provisions of law specified in clauses (i) and (ii) of subparagraph (C) for fiscal year 1994.

(C) *PROVISIONS OF LAW.*—The provisions of law specified in this subparagraph are the following (as in effect with respect to each of the fiscal years referred to in subparagraph (B)):

- (i) Section 423 of this Act.
- (ii) Section 434 of this Act.

(D) *DETERMINATION OF INFORMATION.*—In determining amounts for fiscal years 1992, 1993, and 1994 under clauses (i) and (ii) of subparagraph (B), the Secretary shall use information listed as actual amounts in the Justifica-

*tion for Estimates for Appropriation Committees of the Administration for Children and Families for fiscal years 1994, 1995, and 1996, respectively.*

(c) *USE OF GRANT.—*

(1) *IN GENERAL.—*A State to which a grant is made under this section may use the grant in any manner that the State deems appropriate to accomplish the purpose of this part.

(2) *TIMING OF EXPENDITURES.—*A State to which a grant is made under this section for a fiscal year shall expend the total amount of the grant not later than the end of the immediately succeeding fiscal year.

(3) *RULE OF INTERPRETATION.—*This part shall not be interpreted to prohibit short- and long-term foster care facilities operated for profit from receiving funds provided under this part or part E.

(d) *TIMING OF PAYMENTS.—*The Secretary shall pay each eligible State the amount of the grant payable to the State under this section in quarterly installments.

(e) *PENALTIES.—*

(1) *FOR USE OF GRANT IN VIOLATION OF THIS PART.—*If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that an amount paid to a State under this section for a fiscal year has been used in violation of this part, then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount so used, plus 5 percent of the grant paid under this section to the State for such fiscal year.

(2) *FOR FAILURE TO MAINTAIN EFFORT.—*

(A) *IN GENERAL.—*If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that the amount expended by a State (other than from amounts provided by the Federal Government) during the fiscal years specified in subparagraph (B), to carry out the State program funded under this part is less than the applicable percentage specified in such subparagraph of the total amount expended by the State (other than from amounts provided by the Federal Government) during fiscal year 1994 under part B of this title (as in effect on the day before the date of the enactment of this part), then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount of the difference, plus 5 percent of the grant paid under this section to the State for such fiscal year.

(B) *SPECIFICATION OF FISCAL YEARS AND APPLICABLE PERCENTAGES.—*The fiscal years and applicable percentages specified in this subparagraph are as follows:

(i) For fiscal years 1997 and 1998, 100 percent.

(ii) For fiscal years 1999 through 2002, 75 percent.

(3) *FOR FAILURE TO SUBMIT REQUIRED REPORT.—*

(A) *IN GENERAL.—*The Secretary shall reduce by 3 percent the amount of the grant that would (in the absence of

*this paragraph) be payable to a State under this section for a fiscal year if the Secretary determines that the State has not submitted the report required by section 424 for the immediately preceding fiscal year, within 6 months after the end of the immediately preceding fiscal year.*

*(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.*

*(4) STATE FUNDS TO REPLACE REDUCTIONS IN GRANT.—A State which has a penalty imposed against it under this subsection for a fiscal year shall expend additional State funds in an amount equal to the amount of the penalty for the purpose of carrying out the State program under this part during the immediately succeeding fiscal year.*

*(5) REASONABLE CAUSE EXCEPTION.—Except in the case of the penalty described in paragraph (2), the Secretary may not impose a penalty on a State under this subsection with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.*

*(6) CORRECTIVE COMPLIANCE PLAN.—*

*(A) IN GENERAL.—*

*(i) NOTIFICATION OF VIOLATION.—Before imposing a penalty against a State under this subsection 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 paragraph which outlines how the State will correct the violation and how the State will insure continuing compliance with this part.*

*(ii) 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 clause (i) with respect to a violation, the State may submit to the Federal Government a corrective compliance plan to correct the violation.*

*(iii) 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 clause (ii), the Secretary may consult with the State on modifications to the plan.*

*(iv) ACCEPTANCE OF PLAN.—A corrective compliance plan submitted by a State in accordance with clause (ii) is deemed to be accepted by the Secretary if the Secretary does not accept or reject the plan during the 60-day period that begins on the date the plan is submitted.*

*(B) EFFECT OF CORRECTING VIOLATION.—The Secretary may not impose any penalty under this subsection 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.*

(C) *EFFECT OF FAILING TO CORRECT VIOLATION.*—The Secretary shall assess some or all of a penalty imposed on a State under this subsection 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.

(7) *LIMITATION ON AMOUNT OF PENALTY.*—

(A) *IN GENERAL.*—In imposing the penalties described in this subsection, the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

(B) *CARRYFORWARD OF UNRECOVERED PENALTIES.*—To the extent that subparagraph (A) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under this subsection for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under subsection (a) for the immediately succeeding fiscal year.

(f) *TREATMENT OF TERRITORIES.*—

(1) *IN GENERAL.*—A territory, as defined in section 1108(b)(1), shall carry out a child protection program in accordance with the provisions of this part.

(2) *PAYMENTS.*—Subject to the mandatory ceiling amounts specified in section 1108, each territory, as so defined, shall be entitled to receive from the Secretary for any fiscal year an amount equal to the total obligations to the territory under section 434 (as in effect on the day before the date of the enactment of this part) for fiscal year 1995.

(g) *LIMITATION ON FEDERAL AUTHORITY.*—Except as expressly provided in this Act, the Secretary may not regulate the conduct of States under this part or enforce any provision of this part.

#### **SEC. 424. DATA COLLECTION AND REPORTING.**

(a) *NATIONAL CHILD ABUSE AND NEGLECT DATA SYSTEM.*—The Secretary shall establish a national data collection and analysis program—

(1) *which, to the extent practicable, coordinates existing State child abuse and neglect reports and which shall include—*

(A) *standardized data on substantiated, as well as false, unfounded, or unsubstantiated reports; and*

(B) *information on the number of deaths due to child abuse and neglect; and*

(2) *which shall collect, compile, analyze, and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case-specific and integrated with other case-based foster care and adoption data collected by the Secretary.*

(b) *ADOPTION AND FOSTER CARE AND ANALYSIS AND REPORTING SYSTEMS.*—The Secretary shall implement a system for the collection of data relating to adoption and foster care in the United States. Such data collection system shall—

(1) *avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;*

(2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;

(3) provide comprehensive national information with respect to—

(A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents;

(B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care);

(C) the number and characteristics of—

(i) children placed in or removed from foster care;

(ii) children adopted or with respect to whom adoptions have been terminated; and

(iii) children placed in foster care outside the State which has placement and care responsibility; and

(D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided; and

(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.

(c) **ADDITIONAL INFORMATION.**—The Secretary may require the provision of additional information under the data collection system established under subsection (b) if the addition of such information is agreed to by a majority of the States.

(d) **ANNUAL REPORT BY THE SECRETARY.**—Not later than 6 months after the end of each fiscal year, the Secretary shall prepare a report based on information provided by the States for the fiscal year pursuant to this section, and shall make the report and such information available to the Congress and the public.

#### **SEC. 425. FUNDING FOR STUDIES OF CHILD WELFARE.**

(a) **NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE.**—There are authorized to be appropriated and there are appropriated to the Secretary for each of fiscal years 1996 through 2002—

(1) \$6,000,000 to conduct a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected under section 208 of the Child and Family Services Block Grant Act of 1996; and

(2) \$10,000,000 for such other research as may be necessary under such section.

(b) **ASSESSMENT OF STATE COURTS IMPROVEMENT OF HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION.**—There are authorized to be appropriated and there are appropriated to the Secretary for each of fiscal years 1996 through 1998 \$10,000,000 for the purpose of carrying out section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note). All funds appropriated under this subsection shall be expended not later than September 30, 1999.

**SEC. 426. DEFINITIONS.**

*For purposes of this part and part E, the following definitions shall apply:*

(1) *ADMINISTRATIVE REVIEW.*—The term “administrative review” means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(2) *ADOPTION ASSISTANCE AGREEMENT.*—The term “adoption assistance agreement” means a written agreement, binding on the parties to the agreement, between the State, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum—

(A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement; and

(B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time.

*The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.*

(3) *CASE PLAN.*—The term “case plan” means a written document which includes at least the following:

(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 472(a)(1).

(B) A plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents’ home, facilitate return of the child to his or her own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

(C) To the extent available and accessible, the health and education records of the child, including—

(i) the names and addresses of the child’s health and educational providers;

(ii) the child’s grade level performance;

(iii) the child’s school record;

(iv) assurances that the child’s placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;

(v) a record of the child’s immunizations;

(vi) the child’s known medical problems;

(vii) the child’s medications; and

(viii) any other relevant health and education information concerning the child determined to be appropriate by the State.

Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

(4) CASE REVIEW SYSTEM.—The term “case review system” means a procedure for assuring that—

(A) each child has a case plan designed to achieve placement in the least restrictive (most family-like) and most appropriate setting available and in close proximity to the parents’ home, consistent with the best interests and special needs of the child, which—

(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child; and

(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State in which the home of the parents of the child is located;

(B) the status of each child is reviewed periodically but no less frequently than once every 6 months by either a court or by administrative review (as defined in paragraph (1)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship;

(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 18 months after the original placement (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child’s special needs or circumstances) be continued in foster care on a permanent or long-term basis) and, in the

case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living; and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents; and

(D) a child's health and education record (as described in paragraph (3)(C)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.

(5) *CHILD-CARE INSTITUTION.*—The term “child-care institution” means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(6) *FOSTER CARE MAINTENANCE PAYMENTS.*—

(A) *IN GENERAL.*—The term “foster care maintenance payments” means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

(B) *SPECIAL RULE.*—In cases where—

(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution; and

(ii) payments described in subparagraph (A) are being made under this part with respect to such child, the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

(7) *FOSTER FAMILY HOME.*—The term “foster family home” means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing.



(8) *PARENTS.*—The term “parents” means biological or adoptive parents or legal guardians, as determined by applicable State law.

(9) *STATE.*—The term “State” means the 50 States and the District of Columbia.

(10) *VOLUNTARY PLACEMENT.*—The term “voluntary placement” means an out-of-home placement of a minor, by or with participation of the State, after the parents or guardians of the minor have requested the assistance of the State and signed a voluntary placement agreement.

(11) *VOLUNTARY PLACEMENT AGREEMENT.*—The term “voluntary placement agreement” means a written agreement, binding on the parties to the agreement, between the State, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

\* \* \* \* \*

#### PART D—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

##### APPROPRIATION

SEC. 451. For the purpose of enforcing the support obligations owed by [absent] *noncustodial* parents to their children and the spouse (or former spouse) with whom such children are living, locating absent parents, establishing paternity, obtaining child and spousal support, and assuring that assistance in obtaining support will be available under this part to all children (whether or not eligible for [aid] *assistance under a State program funded under part A*) for whom such assistance is requested, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.

##### DUTIES OF THE SECRETARY

SEC. 452. (a) The Secretary shall establish, within the Department of Health and Human Services a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

(1) establish such standards for State programs for locating [absent] *noncustodial* parents, establishing paternity, and obtaining child support and support for the spouse (or former spouse) with whom the [absent] *noncustodial* parent’s child is living as he determines to be necessary to assure that such programs will be effective;

(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

(3) review and approve State plans for such programs;

[(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the require-

ments of this part, and, not less often than once every three years (or not less often than annually in the case of any State to which a reduction is being applied under section 403(h)(1), or which is operating under a corrective action plan in accordance with section 403(h)(2)), conduct a complete audit of the programs established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part;■

(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;*

(5) *assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State, 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;*

(6) *maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;*

(7) *provide technical assistance to the States to help them establish effective systems for collecting child and spousal support and establishing paternity, and specify the minimum re-*

*quirements 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;*

(8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against **absent** *noncustodial* parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the **absent** *noncustodial* parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;

(9) operate the *Federal Parent Locator Service* established by section 453; **and**

(10) not later than three months after the end of each fiscal year, beginning with the year 1977, submit to the Congress a full and complete report on all activities undertaken pursuant to the provisions of this part, which report shall include, but not be limited to, the following:

(A) total program costs and collections set forth in sufficient detail to show the cost to the States and the Federal Government, the distribution of collections to families, State and local governmental units, and the Federal Government; and an identification of the financial impact of the provisions of **this part**; *this part, including—*

*(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;*

(B) costs and staff associated with the Office of Child Support Enforcement;

(C) the following data, **with the data required under each clause being separately stated for cases** *separately stated for cases where the child is receiving aid to families with dependent children* **assistance under a State program funded under part A** (or foster care maintenance payments under part E), **cases where the child was formerly receiving** *or formerly received such aid* **assistance or payments and the State is continuing to collect support assigned to it** **under section 402(a)(26) or 471(a)(17), pursuant to section 408(a)(4) or 1912 and for all other cases under this part:**

*(i) the total number of cases in which a support obligation has been established in the fiscal year for which the report is submitted, and the total amount of such obligations;*

(ii) the total number of cases in which a support obligation has been established[, and the total amount of such obligations];

(iii) the number of cases [described in clause (i) in which support was collected during such fiscal year, and the total amount of such collections;] *in which support was collected during the fiscal year;*

[(iv) the number of cases described in clause (ii) in which support was collected during such fiscal year, and the total amount of such collections; and]

*(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*

[(v)] *(vii) the number of child support cases filed in each State in such fiscal year, and the amount of the collections made in each State in such fiscal year, on behalf of children residing in another State or against parents residing in another State;*

(D) the status of all State plans under this part as of the end of the fiscal year last ending before the report is submitted, together with an explanation of any problems which are delaying or preventing approval of State plans under this part;

(E) data, by State, on the use of the Federal Parent Locator Service, and the number of locate requests submitted without the [absent] *noncustodial* parent's social security account number;

(F) the number of cases, by State, in which an applicant for or recipient of [aid under a State plan approved] *assistance under a State program funded* under part A has refused to cooperate in identifying and locating the [absent] *noncustodial* parent and the number of cases in which refusal so to cooperate is based on good cause (as determined [in accordance with the standards referred to in section 402(a)(26)(B)(ii)] *by the State*);

(G) data, by State, [on the use of Federal courts and] on use of the Internal Revenue Service for collections, the number of court orders on which collections were made, the number of paternity determinations made and the number of parents located, in sufficient detail to show the cost and benefits to the States and to the Federal Government;

(H) the major problems encountered which have delayed or prevented implementation of the provisions of this part during the fiscal year last ending prior to the submission of such report; [and]

(I) the amount of administrative costs which are expended in each functional category of expenditures, including establishment of paternity[.]; *and*

*(J) compliance, by State, with the standards established pursuant to subsections (h) and (i);*

(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.

【The information contained in any such report under subparagraph (A) shall specifically include (i) the total amount of child support payments collected as a result of services furnished during the fiscal year involved to individuals under section 454(6), (ii) the cost to the States and to the Federal Government of furnishing such services to those individuals, and (iii) the extent to which the furnishing of such services was successful in providing sufficient support to those individuals to assure that they did not require assistance under the State plan approved under part A.】

(b) The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954 the amount of any child support obligation (including any support obligation with respect to the parent who is living with the child and receiving [aid under the State plan approved under part A] *assistance under the State program funded under part A*) which is assigned to such State or is undertaken to be collected by such State pursuant to section [454(6)] 454(4). No amount may be certified for collection under this subsection except the amount of the delinquency under a court or administrative order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the Secretary of the Treasury for any costs involved in making the collection. All reimbursements shall be credited to the appropriation accounts which bore all or part of the costs involved in making the collections. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

\* \* \* \* \*

(d)(1) Except as provided in paragraph (3), the Secretary shall not approve the initial and annually updated advance automated data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document

(A) \* \* \*

\* \* \* \* \*

(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16) with respect to a State if—

(A) the State demonstrates to the satisfaction of the Secretary that the State has an alternative system or systems that enable the State, for purposes of section 403(h), to be in substantial compliance with other requirements of this part; and

(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section ~~1115(c)~~ *1115(b)*, or

(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program.

(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 454(16).

(f) The Secretary shall issue regulations to require that State agencies administering the child support enforcement program under this part petition for the inclusion of medical support as part of any child support order whenever health care coverage is available to the ~~absent~~ *noncustodial* parent at a reasonable cost. Such regulation shall also provide for improved information exchange between such State agencies and the State agencies administering the State medicaid programs under title XIX with respect to the availability of health insurance coverage.

(g)(1) A State's program under this part shall be found, for purposes of section 403(h), not to have complied substantially with the requirements of this part unless, for any fiscal year beginning on or after October 1, 1994, its paternity establishment percentage for such fiscal year is based on reliable data and (rounded to the nearest whole percentage point) equals or exceeds—

(A) ~~75~~ 90 percent;

~~(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;*

~~[(B)]~~ (C) for a State with a paternity establishment percentage of not less than 50 percent but less than 75 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 3 percentage points;

~~[(C)]~~ (D) for a State with a paternity establishment percentage of not less than 45 percent but less than 50 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 4 percentage points;

~~[(D)]~~ (E) for a State with a paternity establishment percentage of not less than 40 percent but less than 45 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 5 percentage points; or

~~[(E)]~~ (F) for a State with a paternity establishment percentage of less than 40 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 6 percentage points.

*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)).*

(2) For purposes of this section—

(A) the term “[paternity establishment percentage] IV-D paternity establishment percentage” means, with respect to a State [(or all States, as the case may be)] for a fiscal year, the ratio (expressed as a percentage) that the total number of children—

(i) who have been born out of wedlock,

(ii) (I) except as provided in the last sentence of this paragraph, with respect to whom [aid is being paid under the State's plan approved under part A or E] *assistance is being provided under the State program, funded under part A or benefits or services for foster care maintenance were being provided under the State program funded under part E* in the fiscal year or, at the option of the State, as of the end of such year, or (II) with respect to whom services are being provided under the State's plan approved under this part in the fiscal year or, at the option of the State, as of the end of such year pursuant to an application submitted under section [454(6)] 454(4)(A)(ii), and

(iii) the paternity of whom has been established or acknowledged, bears to the total number of children born out of wedlock and (except as provided in such last sentence) with respect to whom [aid was being paid under the State's plan approved under part A or E] *assistance was being provided under the State program funded under part A or benefits or services for foster care maintenance were being provided under the State program funded under part E* as of the end of the preceding fiscal year or with respect to whom services were being provided under the State's plan approved under this part as of the end of the preceding fiscal year pursuant to an application submitted under section [454(6)] 454(4)(A)(ii); [and]

(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

[(B)] (C) the term “reliable data” means the most recent data available which are found by the Secretary to be reliable for purposes of this section.

For purposes of subparagraph (A), the total number of children shall not include any child [who is a dependent child] *with respect to whom assistance is being provided under the State program funded under part A* by reason of the death of a parent unless paternity is established for such child or any child with respect to

whom an applicant or recipient is found *by the State* [to have good cause for refusing to cooperate under section 402(a)(26)] *to qualify for a good cause or other exception to cooperation pursuant to section 454(29)* or any child with respect to whom the State agency administering the plan under part E determines (as provided in section 454(4)(B)) that it is against the best interests of such child to do so.

(3)[(A) The requirements of this subsection are in addition to and shall not supplant any other requirement (that is not inconsistent with such requirements) established in regulations by the Secretary for the purpose of determining (for purposes of section 403(h)) whether the program of a State operated under this part shall be treated as complying substantially with the requirements of this part.]

[(B)] (A) The Secretary may modify the requirements of this subsection to take into account such additional variables as the Secretary identifies (including the [percentage of children born out-of-wedlock in a State] *the percentage of children in a State who are born out of wedlock or for whom support has not been established*) that affect the ability of a State to meet the requirements of this subsection.

[(C)] (B) The Secretary shall submit an annual report to the Congress that sets forth the data upon which the paternity establishment percentages for States for a fiscal year are based, lists any additional variables the Secretary has identified under subparagraph (A), and describes State performance in establishing paternity.

(h) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must accept and respond to requests (from States, jurisdictions thereof, or individuals who apply for services furnished by the State agency under this part or with respect to whom an assignment [under section 402(a)(26)] *pursuant to section 408(a)(4)* is in effect) for assistance in establishing and enforcing support orders, including requests to locate [absent] *noncustodial* parents, establish paternity, and initiate proceedings to establish and collect child support awards.

(j) *Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—*

(1) *information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and*

(2) *research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.*



*The amount appropriated under this subsection shall remain available until expended.*

*(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.*

#### FEDERAL PARENT LOCATOR SERVICE

SEC. 453. (a) The Secretary shall establish and conduct a *Federal Parent Locator Service*, under the direction of the designee of the Secretary referred to in section 452(a), which shall be used to obtain and transmit to any authorized person (as defined in subsection (c)) *information as to the whereabouts of any absent parent when such information is to be used to locate such parent for the purpose of enforcing support obligations against such parent.*], *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.*

(b) Upon request, filed in accordance with subsection (d) of any authorized person (as defined in subsection (c)) for the [social security account number (or numbers, if the individual involved has more than one such number) and the most recent address and place of employment of any absent parent] *information described in subsection (a), the Secretary shall, notwithstanding any other provision of law, provide through the Federal Parent Locator Service such information to such person, if such information—*

*(1) is contained in any files or records maintained by the Secretary or by the Department of Health and Human Services; or*

*(2) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by sub-*

section (e), from any other department, agency, or instrumentality of the United States or of any State.

No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c)(1). *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).*

(c) As used in subsection (a), the term “authorized person” means—

(1) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority under such plans to seek to recover any amounts owed as child and spousal **【support】** (including, when authorized under the State plan, any *support or to seek to enforce orders providing child custody or visitation rights* official of a political subdivision);

(2) the court which has authority to issue an order against **【an absent】** *a noncustodial* parent for the support and maintenance of a child**【, or any agent of such court; and】** *or to issue an order against a resident parent for child custody or visitation rights, or any agent of such court;*

(3) the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving **【aid under part A of this title】** *assistance under a State program funded under part A*) (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against **【an absent】** *a noncustodial* parent who has a duty to support and maintain any such child.

\* \* \* \* \*

(e)(1) Whenever the Secretary receives a request submitted under subsection (b) which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c), he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.

(2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Secretary for information authorized to be provided by the Secretary under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individual shall immediately transmit such information to the Secretary, except that if any information is obtained the disclosure of which would contravene national policy or security interests of the United States or the confidentiality of census data, such information shall

not be transmitted and such individual shall immediately notify the Secretary. If such search fails to disclose the information requested, such individual shall immediately so notify the Secretary. The costs incurred by any such department, agency, or instrumentality of the United States or of any State in providing such information to the Secretary shall be reimbursed by him *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)*. Whenever such services are furnished to an individual specified in subsection (c)(3), a fee shall be charged such individual. The fee so charged shall be used to reimburse the Secretary or his delegate for the expense of providing such services.

(f) The Secretary, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering State plans approved under this part for such State agencies to accept from resident parents, legal guardians, or agents of a child described in subsection (c)(3) and to transmit to the Secretary requests for information with regard to the whereabouts of [absent] *noncustodial* parents and otherwise to cooperate with the Secretary in carrying out the purposes of this section.

(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).*

(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 abstracts 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, which shall be used to determine the accuracy of payments under the supplemental security income program under title XVI and in connection with benefits under title II.

(5) *RESEARCH.*—The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

(k) *FEES.*—

(1) *FOR SSA VERIFICATION.*—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).

(2) *FOR INFORMATION FROM STATE DIRECTORIES OF NEW HIRES.*—The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such information).

(3) *FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.*—A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

(l) *RESTRICTION ON DISCLOSURE AND USE.*—Information in the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.

(m) *INFORMATION INTEGRITY AND SECURITY.*—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

(2) restrict access to confidential information in the Federal Parent Locator Service to authorized 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.

(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.

(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. 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 income 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 income is 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, and may disclose such information to any agent of the agency that is under contract with the agency to carry out such purposes.

(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.

#### STATE PLAN FOR CHILD AND SPOUSAL SUPPORT

SEC. 454. A State plan for child and spousal support must—

(1) \* \* \*

\* \* \* \* \*

[(4) provide that such State will undertake—

[(A) in the case of a child born out of wedlock with respect to whom an assignment under section 402(a)(26) or section 1912 is effective, to establish the paternity of such child, unless the agency administering the plan of the State under part A of this title determines in accordance with the standards prescribed by the Secretary pursuant to section 402(a)(26)(B) that it is against the best interests of the child to do so, or, in the case of such a child with respect to whom an assignment under section 1912 is in effect, the State agency administering the plan approved under title XIX determines pursuant to section 1912(a)(1)(B) that it is against the best interests of the child to do so, and

[(B) in the case of any child with respect to whom such assignment is effective, including an assignment with respect to a child on whose behalf a State agency is making foster care maintenance payments under part E, to secure support for such child from his parent (or from any other person legally liable for such support), and from such parent for his spouse (or former spouse) receiving aid to families with dependent children or medical assistance

under a State plan approved under title XIX (but only if a support obligation has been established with respect to such spouse, and only if the support obligation established with respect to the child is being enforced under the plan), utilizing any reciprocal arrangements adopted with other States (unless the agency administering the plan of the State under part A or E of this title determines in accordance with the standards prescribed by the Secretary pursuant to section 402(a)(26)(B) that it is against the best interests of the child to do so), except that when such arrangements and other means have proven ineffective, the State may utilize the Federal courts to obtain or enforce court orders for support;】

(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;*

(5) *provide that (A) in any case in which support payments are collected for an individual with respect to whom an assignment 【under section 402(a)(26)】 pursuant to section 408(a)(4) is effective, such payments shall be made to the State for distribution pursuant to section 457 and shall not be paid directly to the family, and the individual will be notified on a monthly basis (or on a quarterly basis for so long as the Secretary determines with respect to a State that requiring such notice on a monthly basis would impose an unreasonable administrative burden) of the amount of the support payments collected【; 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 (B) in any case in which support payments are collected for an individual pursuant to the assignment made under section 1912, such payments shall be made to the State for distribution pursuant to section 1912, except that this clause shall not apply to such payments for any month after the month in which the individual ceases to be eligible for medical assistance;*

(6) provide ~~that~~ *that*—(A) the child support collection or paternity determination services established under the plan shall be made available to any individual not otherwise eligible for such services upon application filed by such individual with the State, including support collection services for the spouse (or former spouse) with whom the absent parent's child is living (but only if a support obligation has been established with respect to such spouse, and only if the support obligation established with respect to the child is being enforced under the plan),

(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;*

(B) *an application fee for furnishing such services shall be imposed on individuals not receiving assistance under any State program funded under part A, which shall be paid by the individual applying for such services, or recovered from the absent parent, or paid by the State out of its own funds (the payment of which from State funds shall not be considered as an administrative cost of the State for the operation of the plan, and shall be considered income to the program), the amount of which (i) will not exceed \$25 (or such higher or lower amount (which shall be uniform for all States) as the Secretary may determine to be appropriate for any fiscal year to reflect increases or decreases in administrative costs), and (ii) may vary among such individuals on the basis of ability to pay (as determined by the State);*

(C) *a fee of not more than \$25 may be imposed in any case where the State requests the Secretary of the Treasury to withhold past-due support owed to or on behalf of such individual from a tax refund pursuant to section 464(a)(2);*

(D) *a fee (in accordance with regulations of the Secretary) for performing genetic tests may be imposed on any individual who is not a recipient of aid under a State plan approved assistance under a State program funded under part A; and*

(E) *any costs in excess of the fees so imposed may be collected—*

(i) *from the parent who owes the child or spousal support obligation involved, or*

(ii) *at the option of the State, from the individual to whom such services are made available, but only if such State has in effect a procedure whereby all persons in such State having authority to order child or spousal support are informed that such costs are to be collected from the individual to whom such services were made available;*

(7) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B)

with respect to any other matters of common concern to such courts or officials and the agency administering the plan;

(8) provide that the agency administering the plan will establish a service to locate **[absent]** *noncustodial* parents utilizing—

(A) all sources of information and available records, and

**[(B) the Parent Locator Service in the Department of Health and Human Services;]**

*(B) the Federal Parent Locator Service established under section 453;*

(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State—

(A) in establishing paternity, if necessary,

(B) in locating **[an absent]** *a noncustodial* parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State,

(C) in securing compliance by **[an absent]** *a noncustodial* parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of the child or children or the parent of such child or children with respect to whom aid is being provided under the plan of such other State, **[and]**

(D) in carrying out other functions required under a plan approved under this part; *and*

*(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;*

(10) provide that the State will maintain a full record of collections and disbursements made under the plan and have an adequate reporting system;

(11)(A) provide that amounts collected as support shall be distributed as provided in section 457; *and*

**[(12)]** (B) provide that any payment required to be made under section 456 or 457 to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children;

*(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;*

(13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating **absent** *noncustodial* parents, establishing paternity, obtaining support orders, and collecting support payments *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*;

(14)(A) comply with such bonding requirements, for employees who receive, disburse, handle, or have access to, cash, as the Secretary shall by regulations prescribe;

**[(15)]** (B) maintain methods of administration which are designed to assure that persons responsible for handling cash receipts shall not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of cash receipts (except that the Secretary shall by regulations provide for exceptions to this requirement in the case of sparsely populated areas where the hiring of unreasonable additional staff would otherwise be necessary);

(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;

(16) provide**],** at the option of the State,**]** for the establishment and operation *bt the State agency*, in accordance with an (initial and annually updated) advance automated data processing planning document approved under section 452(d), of a statewide automated data processing and information retrieval system *meeting the requirements of section 454A* designed effectively and efficiently to assist management in the administration of the State plan, **[in the State and localities thereof, so as (A)]** so as to control, account for, and monitor **[(i)]** all the factors in the support enforcement collection and paternity determination process under such plan **[(including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient compatibility among the systems of different jurisdictions to permit**

periodic screening to determine whether such individual is paying or is obligated to pay support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribution of support payments (both intra- and inter-State), the determination, collection, and distribution of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, (D) to facilitate the development and improvement of the income withholding and other procedures required under section 466(a) through the monitoring of support payments, the maintenance of accurate records regarding the payment of support, and the prompt provision of notice to appropriate officials with respect to any arrearages in support payments which may occur, and (E) to provide management information on all cases under the State plan from initial referral or application through collection and enforcement;];

(17) \* \* \*

\* \* \* \* \*

(21)(A) at the option of the State, impose a late payment fee on all overdue support (as defined in section 466(e)) under any obligation being enforced under this part, in an amount equal to a uniform percentage determined by the State (not less than 3 percent nor more than 6 percent) of the overdue support, which shall be payable by the [absent] *noncustodial* parent owing the overdue support; and

(B) assure that the fee will be collected in addition to, and only after full payment of, the overdue support, and that the imposition of the late payment fee shall not directly or indirectly result in a decrease in the amount of the support which is paid to the child (or spouse) to whom, or on whose behalf, it is owed;

(22) in order for the State to be eligible to receive any incentive payments under section 458, provide that, if one or more political subdivisions of the State participate in the costs of carrying out activities under the State plan during any period, each such subdivision shall be entitled to receive an appropriate share (as determined by the State) of any such incentive payments made to the State for such period, taking into account the efficiency and effectiveness of the activities carried out under the State plan by such political subdivision;

(23) provide that the State will regularly and frequently publicize, through public service announcements, the availability of child support enforcement services under the plan and

otherwise, including information as to any application fees for such services and a telephone number or postal address at which further information may be obtained *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; [and]*

[(24) provide that if the State, as of the date of the enactment of this paragraph, does not have in effect an automated data processing and information retrieval system meeting all of the requirements of paragraph (16), the State—

[(A) will submit to the Secretary by October 1, 1991, for review and approval by the Secretary within 9 months after submittal an advance automated data processing planning document of the type referred to in such paragraph; and

[(B) will have in effect by October 1, 1997, an operational automated data processing and information retrieval system, meeting all the requirements of that paragraph, which has been approved by the Secretary.

The State may allow the jurisdiction which makes the collection involved to retain any application fee under paragraph (6)(B) or any late payment fee under paragraph (21).]

*(24) provide that the State will have in effect an automated data processing and information retrieval system—*

*(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988, and*

*(B) by October 1, 1999, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 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 4344(a)(3) of the Personal Responsibility and Work Opportunity Act of 1996;*

*(25) provide that if a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of other individuals to whom services are furnished under the plan, except that an application or other request to continue services shall not be required of such a family and paragraph (6)(B) shall not apply to the family;*

*(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;  
 (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;

(28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 453A;

(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 non-custodial 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;*

*(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;*

*(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; and*

*(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. 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.

(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.*

(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 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.*

(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).*

**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 income 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.

#### PAYMENTS TO STATES

SEC. 455. (a)(1) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter an amount—

(A) equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454,

(B) equal to ~~90 percent~~ *the percent specified in paragraph (3)* (rather than the percent specified in subparagraph (A)) of ~~so much of~~ the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system (including in such sums the full cost of the hardware components of such system) ~~which the Secretary finds meets the requirements specified in section 454(16), or meets such requirements without regard to clause (D) thereof, and~~, and

(C) equal to 90 percent (rather than the percentage specified in subparagraph (A)) of so much of the sums expended during such quarter as are attributable to laboratory costs incurred in determining paternity;

except that no amount shall be paid to any State on account of amounts expended to carry out an agreement which it has entered into pursuant to section 463. In determining the total amounts expended by any State during a quarter, for purposes of this subsection, there shall be excluded an amount equal to the total of any fees collected or other income resulting from services provided under the plan approved under this part.

\* \* \* \* \*

*(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.*

*(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.*

\* \* \* \* \*

(e)(1) In order to encourage and promote the development and use of more effective methods of enforcing support obligations under this part in cases where either the children on whose behalf the support is sought or their ~~absent~~ *noncustodial* parents do not reside in the State where such cases are filed, the Secretary is authorized to make grants, in such amounts and on such terms and conditions as the Secretary determines to be appropriate, to States which propose to undertake new or innovative methods of support collection in such cases and which will use the proceeds of such grants to carry out special projects designed to demonstrate and test such methods.

\* \* \* \* \*

## SUPPORT OBLIGATIONS

SEC. 456. (a)(1) The support rights assigned to the State **【under section 402(a)(26)】** or secured on behalf of a child receiving foster care maintenance payments shall constitute an obligation owed to such State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable State and local processes.

(2) The amount of such obligation shall be—

(A) the amount specified in a court order which covers the assigned support rights, or

(B) if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary, and

(3) Any amounts collected from **【an absent】** *a noncustodial* parent under the plan shall reduce, dollar for dollar, the amount of his obligation under subparagraphs (A) and (B) of paragraph (2).

**【(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under title 11, United States Code.】**

*(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.*

**【DISTRIBUTION OF PROCEEDS**

**【SEC. 457. (a) The amounts collected as child support by a State pursuant to a plan approved under this part during the 15 months beginning July 1, 1975, shall be distributed as follows:**

**【(1) 40 per centum of the first \$50 of such amounts as are collected periodically which represent monthly support payments shall be paid to the family without any decrease in the amount paid as assistance to such family during such month;**

**【(2) such amounts as are collected periodically which are in excess of any amount paid to the family under paragraph (1) which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);**

**【(3) such amounts as are in excess of amounts retained by the State under paragraph (2) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and**

**【(4) such amounts as are in excess of amounts required to be distributed under paragraphs (1), (2), and (3) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the**

State which have not been repaid, such amounts shall be paid to the family.

[(b) The amounts collected as support by a State pursuant to a plan approved under this part during any fiscal year beginning after September 30, 1976, shall (subject to subsection (d)) be distributed as follows:

[(1) of such amounts as are collected periodically which represent monthly support payments, the first \$50 of any payments for a month received in that month, and the first \$50 of payments for each prior month received in that month which were made by the absent parent in the month when due, shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;

[(2) such amounts as are collected periodically which are in excess of any amount paid to the family under paragraph (1) and which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

[(3) such amounts as are in excess of amounts retained by the State under paragraph (2) and are not in excess of the amount required to be paid during such period to the family by a court or administrative order shall be paid to the family; and

[(4) such amounts as are in excess of amounts required to be distributed under paragraphs (1), (2), and (3) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

[(c) Whenever a family with respect to which child support enforcement services have been provided pursuant to section 454(4) ceases to receive assistance under part A of this title, the State shall provide appropriate notice to the family and continue to provide such services, and pay any amount of support collected, subject to the same conditions and on the same basis as in the case of the individuals to whom services are furnished pursuant to section 454(6), except that no application or other request to continue services shall be required of a family to which this subsection applies, and the provisions of section 454(6)(B) may not be applied.

[(d) Notwithstanding the preceding provisions of this section, amounts collected by a State as child support for months in any period on behalf of a child for whom a public agency is making foster care maintenance payments under part E—

[(1) shall be retained by the State to the extent necessary to reimburse it for the foster care maintenance payments made with respect to the child during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);



[(2) shall be paid to the public agency responsible for supervising the placement of the child to the extent that the amounts collected exceed the foster care maintenance payments made with respect to the child during such period but not the amounts required by a court or administrative order to be paid as support on behalf of the child during such period; and the responsible agency may use the payments in the manner it determines will serve the best interests of the child, including setting such payments aside for the child's future needs or making all or a part thereof available to the person responsible for meeting the child's day-to-day needs; and

[(3) shall be retained by the State, if any portion of the amounts collected remains after making the payments required under paragraphs (1) and (2), to the extent that such portion is necessary to reimburse the State (with appropriate reimbursement to the Federal Government to the extent of its participation in the financing) for any past foster care maintenance payments (or payments of aid to families with dependent children) which were made with respect to the child (and with respect to which past collections have not previously been retained);

and any balance shall be paid to the State agency responsible for supervising the placement of the child, for use by such agency in accordance with paragraph (2).]

**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 4302 of the Personal Responsibility and Work Op-

*portunity 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 4302 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 4302 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.

#### INCENTIVE PAYMENTS TO STATES

SEC. 458. (a) In order to encourage and reward State child support enforcement programs which perform in a cost-effective and efficient manner to secure support for all children who have sought assistance in securing support, whether such children reside within the State or elsewhere and whether or not they are eligible for [aid to families with dependent children under a State plan approved under part A of this title] *assistance under a program funded under part A*, and regardless of the economic circumstances of their parents, the Secretary shall, from support collected which would otherwise represent the Federal share of assistance to families of [absent] *noncustodial* parents, pay to each State for each fiscal year, on a quarterly basis (as described in subsection (e)) beginning with the quarter commencing October 1, 1985, an incentive payment in an amount determined under subsection (b).

(b)(1) Except as provided in paragraphs (2), (3), and (4), the incentive payment shall be equal to—

(A) 6 percent of the total amount of support collected under the plan during the fiscal year in cases in which the support obligation involved is assigned to the State pursuant to section [402(a)(26)] *408(a)(4)* or section 471(a)(17) (with such total amount for any fiscal year being hereafter referred to in this section as the “State’s [AFDC] *title IV–A* collections” for that year), plus

(B) 6 percent of the total amount of support collected during the fiscal year in all other cases under this part (with such total amount for any fiscal year being hereafter referred to in this section as the State’s “[non-AFDC] *non-title IV–A* collections” for that year).

(2) If subsection (c) applies with respect to a State’s [AFDC] *title IV–A* collections or [non-AFDC] *non-title IV–A* collections for any fiscal year, the percent specified in paragraph (1)(A) or (B) (with respect to such collections) shall be increased to the higher percent determined under such subsection (with respect to such collections) in determining the State’s incentive payment under this subsection for that year.

(3) The dollar amount of the portion of the State's incentive payment for any fiscal year which is determined on the basis of its **[non-AFDC]** *non-title IV-A* collections under paragraph (1)(B) (after adjustment under subsection (c) if applicable) shall in no case exceed—

(A) the dollar amount of the portion of such payment which is determined on the basis of its **[AFDC]** *title IV-A* collections under paragraph (1)(A) (after adjustment under subsection (c) if applicable) in the case of fiscal year 1986 or 1987;

(B) 105 percent of such dollar amount in the case of fiscal year 1988;

(C) 110 percent of such dollar amount in the case of fiscal year 1989; or

(D) 115 percent of such dollar amount in the case of fiscal year 1990 or any fiscal year thereafter.

(4) The Secretary shall make such additional payments to the State under this part, for fiscal year 1986 or 1987, as may be necessary to assure that the total amount of payments under this section and section 455(a)(1)(A) for such fiscal year is no less than 80 percent of the amount that would have been payable to that State and its political subdivisions for such fiscal year under this section and section 455(a)(1)(A) if those sections (including the amendment made by section 5(c)(2)(A) of the Child Support Enforcement Amendments of 1984) had remained in effect as they were in effect for fiscal year 1985.

(c) If the total amount of a State's **[AFDC]** *title IV-A* collections or **[non-AFDC]** *non-title IV-A* collections for any fiscal year bears a ratio to the total amount expended by the State in that year for the operation of its plan approved under section 454 for which payment may be made under section 455 (with the total amount so expended in any fiscal year being hereafter referred to in this section as the State's "combined **[AFDC/non-AFDC]** *title IV-A/non-title IV-A* administrative costs" for that year) which is equal to or greater than 1.4, the relevant percent specified in subparagraph (A) or (B) of subsection (b)(1) (with respect to such collections) shall be increased to—

(1) 6.5 percent, plus

(2) one-half of 1 percent for each full two-tenths by which such ratio exceeds 1.4;

except that the percent so specified shall in no event be increased (for either **[AFDC]** *title IV-A* collections or **[non-AFDC]** *non-title IV-A* collections) to more than 10 percent. For purposes of the preceding sentence, laboratory costs incurred in determining paternity in any fiscal year may at the option of the State be excluded from the State's combined **[AFDC/non-AFDC]** *title IV-A/non-title IV-A* administrative costs for that year.

**[CONSENT BY THE UNITED STATES TO GARNISHMENT AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS]**

**[SEC. 459.** (a) Notwithstanding any other provision of law (including section 207), 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 services, 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 legal process brought for the enforcement, against such individual of his legal obligations to provide child support or make alimony payments.

[(b) Service of legal process brought for the enforcement of an individual's obligation to provide child support or make alimony payments shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate agent designated for receipt of such service of process pursuant to regulations promulgated pursuant to section 461 (or, if no agent has been designated for the governmental entity having payment responsibility for the moneys involved, then upon the head of such governmental entity). Such process shall be accompanied by sufficient data to permit prompt identification of the individual and the moneys involved.

[(c) No Federal employee whose duties include responding to interrogatories pursuant to requirements imposed by section 461(b)(3) 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 him in connection with the carrying out of any of his duties which pertain (directly or indirectly) to the answering of any such interrogatory.

[(d) Whenever any person, who is designated by law or regulation to accept service of process to which the United States is subject under this section, is effectively served with any such process or with interrogatories relating to an individual's child support or alimony payment obligations, such person shall respond thereto within thirty days (or within such longer period as may be prescribed by applicable State law) after the date effective service thereof is made, and shall, as soon as possible but not later than fifteen days after the date effective service is so made of any such process, send written notice that such process has been so served (together with a copy thereof) to the individual whose moneys are affected thereby at his duty station or last-known home address.

[(e) Governmental entities affected by legal processes served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary their normal pay and disbursement cycles in order to comply with any such legal process.

[(f) Neither the United States, any disbursing officer, nor governmental entity 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 such payment is made in accordance with this section and the regulations issued to carry out this section.]

**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 de-*

*nominated 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.

**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 implementation of such procedures is so unsatisfactory, that such procedures do not meet the criteria for such a declaration; or

(B) continued operation of the declaration is not consistent with the purposes of this part.

(3) *FORM OF DECLARATION.*—A declaration under paragraph (1) may be made in the form of an international agreement, in connection with an 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.*

#### 【REGULATIONS PERTAINING TO GARNISHMENTS

【SEC. 461. (a) Authority to promulgate regulations for the implementation of the provisions of section 459 shall, insofar as the provisions of such section are applicable to moneys due from (or payable by)—

【(1) the executive branch of the Government (including in such branch, for the purposes of this subsection, the territories and possessions of the United States, the United States Postal Service, the Postal Rate Commission, any wholly owned Fed-

eral corporation created by an Act of Congress, and the government of the District of Columbia), be vested in the President (or his designee),

[(2) the legislative branch of the 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 Government, be vested in the Chief Justice of the United States (or his designee).

[(b) Regulations promulgated pursuant to this section shall—

[(1) in the case of those promulgated by the executive branch of the Government, include a requirement that the head of each agency thereof shall cause to be published, in the appendix of the regulations so promulgated, (A) his designation of an agent or agents to accept service of process, identified by title of position, mailing address, and telephone number, and (B) an indication of the data reasonably required in order for the agency promptly to identify the individual with respect to whose moneys the legal process is brought,

[(2) in the case of regulations promulgated for the legislative and judicial branches of the Government set forth, in the appendix to the regulations so promulgated, (A) the name, position, address, and telephone number of the agent or agents who have been designated for service of process, and (B) an indication of the data reasonably required in order for such entity promptly to identify the individual with respect to whose moneys the legal process is brought, and

[(3) provide that (A) in the case of regulations promulgated by the executive branch of the Government, each head of a governmental entity (or his designee) shall respond to relevant interrogatories, if authorized by the law of the State in which legal process will issue, prior to formal issuance of such process, upon a showing of the applicant's entitlement to child support or alimony payments, and (B) in the case of regulations promulgated for the legislative and judicial branches of the Government, the person or persons designated as agents for service of process in accordance with paragraph (2) shall respond to relevant interrogatories if authorized by the law of the State in which legal process will issue, prior to formal issuance of legal process, upon a showing of the applicant's entitlement to child support or alimony payments.

[(c) In the event that a governmental entity, which is authorized under this section or regulations issued to carry out this section to accept service of process, pursuant to the provisions of subsection (a), is served with more than one legal process with respect to the same moneys due or payable to any individual, then such moneys shall be available to satisfy 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.

#### DEFINITIONS

[SEC. 462. For purposes of section 459—

[(a) The term “United States” means the Federal Government of the United States, consisting of the legislative branch, the judicial branch, and the executive branch thereof, and each and every department, agency, or instrumentality of any such branch, including the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, any office, commission, bureau, or other administrative subdivision or creature thereof, and the governments of the territories and possessions of the United States.

[(b) The term “child support”, when used in reference to the legal obligations of an individual to provide such support, means periodic payments of funds for the support and maintenance of a child or children with respect to which such individual has such an obligation, and (subject to and in accordance with State law) includes but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children; such term also 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.

[(c) 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 such individual, and (subject to and in accordance with State law) includes but is not limited to, separate maintenance, alimony pendente lite, maintenance, and spousal support; such term also 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. Such term does not include any payment or transfer of property or its value by an individual to his spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

[(d) The term “private person” means a person who does not have sovereign or other special immunity or privilege which causes such person not to be subject to legal process.

[(e) The term “legal process” means any writ, order, summons, or other similar process in the nature of garnishment, which—

[(1) is issued by (A) a court of competent jurisdiction within any State, territory, or possession of the United States, (B) a court of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor such process, or (C) an authorized official pursuant to an order of such a court of competent jurisdiction or pursuant to State or local law, and

[(2) 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 such moneys to another party in order to satisfy a legal obligation of such individual to provide child support or make alimony payments.

[(f) Entitlement of an individual to any money shall be deemed to be “based upon remuneration for employment”, if such money consists of—

[(1) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes but is not limited to, severance pay, sick pay, and incentive pay, but does not include awards for making suggestions, or

[(2) periodic benefits (including a periodic benefit as defined in section 228(h)(3) of this Act) or other payments to such individual under the insurance system established by title II of this Act or any other system or fund established by the United States (as defined in subsection (a)) 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 himself or any other individual (not including any payment as compensation for death under any Federal program, any payment under any Federal program established to provide “black lung” benefits, any payment by the Secretary of Veterans Affairs as pension, or any payments by the Secretary of Veterans Affairs as compensation for a service-connected disability or death, except any compensation paid by the Secretary of Veterans Affairs to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation), and does not consist of amounts paid, by way of reimbursement or otherwise, to such individual by his employer to defray expenses incurred by such individual in carrying out duties associated with his employment.

[(g) In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

[(1) are owed by such individual to the United States,

[(2) are required by law to be, and are, deducted from the remuneration or other payment involved, including but not limited to, Federal employment taxes, and fines and forfeitures ordered by court-martial,

[(3) are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and if amounts withheld are not greater than would be the case if such 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 1954 may be permitted only when such individual presents evidence of a tax obligation which supports the additional withholding),

[(4) are deducted as health insurance premiums,

[(5) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage), or

[(6) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).]



USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH  
THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN  
CASES OF PARENTAL KIDNAPING OF A CHILD

SEC. 463. (a) The Secretary shall enter into an agreement with any State which is able and willing to do so, under which the services of the *Federal* Parent Locator Service established under section 453 shall be made available to such State for the purpose of determining the whereabouts of any [absent] *noncustodial* parent or child when such information is to be used to locate such parent or child for the purpose of—

(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

(2) making or enforcing a child custody determination.

(b) An agreement entered into under subsection (a) shall provide that the State agency described in section 454 will, under procedures prescribed by the Secretary in regulations, receive and transmit to the Secretary requests from authorized persons for information as to (or useful in determining) the whereabouts of any [absent] *noncustodial* parent or child when such information is to be used to locate such parent or child for the purpose of—

(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

(2) making or enforcing a child custody determination.

(c) Information authorized to be provided by the Secretary under subsection (a), (b), (e), or (f) shall be subject to the same conditions with respect to disclosure as information authorized to be provided under section 453, and a request for information by the Secretary under this section shall be considered to be a request for information under section 453 which is authorized to be provided under such section. Only information as to the most recent address and place of employment of any [absent] *noncustodial* parent or child shall be provided under this section.

\* \* \* \* \*

(e) The Secretary shall enter into an agreement with the Central Authority designated by the President in accordance with section 7 of the International Child Abduction Remedies Act, under which the services of the *Federal* Parent Locator Service established under section 453 shall be made available to such Central Authority upon its request for the purpose of locating any parent or child on behalf of an applicant to such Central Authority within the meaning of section 3(1) of that Act. The *Federal* Parent Locator Service shall charge no fees for services requested pursuant to this subsection.

(f) The Secretary shall enter into an agreement with the Attorney General of the United States, under which the services of the *Federal* Parent Locator Service established under section 453 shall be made available to the Office of Juvenile Justice and Delinquency Prevention upon its request to locate any parent or child on behalf of such Office for the purpose of—

(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child, or

(2) making or enforcing a child custody determination.

The *Federal* Parent Locator Service shall charge no fees for services requested pursuant to this subsection.

\* \* \* \* \*

REQUIREMENT OF STATUTORILY PRESCRIBED PROCEDURES TO  
IMPROVE EFFECTIVENESS OF CHILD SUPPORT ENFORCEMENT

SEC. 466. (a) In order to satisfy section 454(20)(A), each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

[(1) Procedures described in subsection (b) for the withholding from income of amounts payable as support.]

(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 income 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) [Procedures under which expedited processes (determined in accordance with regulations of the Secretary) are in effect under the State judicial system or under State administrative processes (A) for obtaining and enforcing support orders, and (B) for establishing paternity.] *Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations.* The Secretary may waive the provisions of this paragraph with respect to one or more political subdivisions within the State on the basis of the effectiveness and timeliness of support order issuance and enforcement or paternity establishment within the political subdivision (in accordance with the general rule for exemptions under subsection (d)).

(3) Procedures under which the State child support enforcement agency shall request, and the State shall provide, that for the purpose of enforcing a support order under any State plan approved under this part—

(A) any refund of State income tax which would otherwise be payable to [an absent] *a noncustodial* parent will be reduced, after notice has been sent to that [absent] *noncustodial* parent of the proposed reduction and the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State), by the amount of any overdue support owed by such [absent] *noncustodial* parent;

(B) the amount by which such refund is reduced shall be distributed in accordance with section 457(b)(4) or (d)(3) in the case of overdue support assigned to a State pursuant to section [402(a)(26)] *408(a)(3)* [or 471(a)(17)], or, [in the case of overdue support which a State has agreed

to collect under section 454(6)] *in any other case*, shall be distributed, after deduction of any fees imposed by the State to cover the costs of collection, to the child or parent to whom such support is owed; and

(C) notice of the [absent] *noncustodial* parent's social security account number (or numbers, if he has more than one such number) and home address shall be furnished to the State agency requesting the refund offset, and to the State agency enforcing the order.

[(4) Procedures under which liens are imposed against real and personal property for amounts of overdue support owed by an absent parent who resides or owns property in the State.]

(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.*

[(5)(A)(i) Procedures which permit the establishment of the paternity of any child at any time prior to such child's eighteenth birthday.

[(ii) As of August 16, 1984, the requirement of clause (i) shall also apply to any child for whom paternity has not yet been established and any child 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 under which the State is required (except in cases where the individual involved has been found under section 402(a)(26)(B) to have good cause for refusing to cooperate) to require the child and all other parties, in a contested paternity case, to submit to genetic tests upon the request of any such party.

[(C) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that the rights and responsibilities of acknowledging paternity are explained and ensure that due process safeguards are afforded. Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity during the period immediately before or after the birth of a child.

[(D) Procedures under which the voluntary acknowledgment of paternity creates a rebuttable, or at the option of the State, conclusive presumption of paternity, and under which such voluntary acknowledgment is admissible as evidence of paternity.

[(E) Procedures under which the voluntary acknowledgment of paternity must be recognized as a basis for seeking a

support order without requiring any further proceedings to establish paternity.

[(F) Procedures which provide that (i) 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, and (ii) if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

[(G) 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) 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.]

(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 non-existence of sexual contact between the parties.*

(ii) *OTHER REQUIREMENTS.*—*Procedures which require the State agency, in any case in which the agency orders genetic testing—*

*(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and*

*(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.*

(C) *VOLUNTARY PATERNITY ACKNOWLEDGMENT.*—

(i) *SIMPLE CIVIL PROCESS.*—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

(ii) *HOSPITAL-BASED PROGRAM.*—Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child, 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.

(6) Procedures which require that [an absent] a noncustodial parent give security, post a bond, or give some other guarantee to secure payment of overdue support, after notice has been sent to such [absent] noncustodial parent of the proposed action and of the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State).

[(7) Procedures which require the State to periodically reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) the name of any parent who owes overdue support and is at least 2 months delinquent in the payment of such support and the amount of such delinquency; except that (A) if the amount of the overdue support involved in any case is less than \$1,000, information regarding such amount shall be made available only at the option of the State, (B) any information with respect to an absent parent shall be made available under such procedures only after notice has been sent to such absent parent of the proposed action, and such absent parent has been given a reasonable opportunity to contest the accuracy of such information (and after full compliance with all procedural due process requirements of the State), and (C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency.]

(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).*

(8)(A) Procedures under which all child support orders not described in subparagraph (B) will include provision for withholding from [wages] *income*, in order to assure that withholding as a means of collecting child support is available if arrearages occur without the necessity of filing application for services under this part.

(B) Procedures under which all child support orders which are initially issued in the State on or after January 1, 1994, and are not being enforced under this part will include the following requirements:

(i) The [wages] *income* of [an absent] *a noncustodial parent* shall be subject to withholding, regardless of whether support payments by such parent are in arrears, on the effective date of the order; except that such [wages] *income* shall not be subject to withholding under this clause in any case where (I) one of the parties dem-



onstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (II) a written agreement is reached between both parties which provides for an alternative arrangement.

(ii) The requirements of subsection (b)(1) (which shall apply in the case of each **absent** *noncustodial* parent against whom a support order is or has been issued or modified in the State, without regard to whether the order is being enforced under the State plan).

(iii) The requirements of paragraphs (2), (5), (6), (7), (8), (9), and (10) of subsection (b), where applicable.

(iv) Withholding from income of amounts payable as support must be carried out in full compliance with all procedural due process requirements of the State.

(9) Procedures which require that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the expedited processes required by paragraph (2), is (on and after the date it is due)—

(A) a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced,

(B) entitled as a judgment to full faith and credit in such State and in any other State, and

(C) not subject to retroactive modification by such State or by any other State;

except that such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.

[(10)(A) Procedures to ensure that, beginning 2 years after the date of the enactment of this paragraph, if the State determines (pursuant to a plan indicating how and when child support orders in effect in the State are to be periodically reviewed and adjusted) that a child support order being enforced under this part should be reviewed, the State must, at the request of either parent subject to the order, or of a State child support enforcement agency, initiate a review of such order, and adjust such order, as appropriate, in accordance with the guidelines established pursuant to section 467(a).

[(B) Procedures to ensure that, beginning 5 years after the date of the enactment of this paragraph or such earlier date as the State may select, the State must implement a process for the periodic review and adjustment of child support orders being enforced under this part under which the order is to be reviewed not later than 36 months after the establishment of the order or the most recent review, and adjusted, as appropriate, in accordance with the guidelines established pursuant to section 467(a), unless—

[(i) in the case of an order with respect to an individual with respect to whom an assignment under section

402(a)(26) is in effect, the State has determined, in accordance with regulations of the Secretary, that such a review would not be in the best interests of the child and neither parent has requested review; and

[(ii) in the case of any other order being enforced under this part, neither parent has requested review.

[(C) Procedures to ensure that the State notifies each parent subject to a child support order in effect in the State that is being enforced under this part—

[(i) of any review of such order, at least 30 days before the commencement of such review; and

[(ii) of the right of such parent under subparagraph (B) to request the State to review such order; and

[(iii) of a proposed adjustment (or determination that there should be no change) in the child support award amount, and such parent is afforded not less than 30 days after such notification to initiate proceedings to challenge such adjustment (or determination).]

(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.*

(11) Procedures under which a State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.

(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.*

(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.*

(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 com-*

pare 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.

(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.

(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.

(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.

(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.

(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.*

Notwithstanding section 454(20)(B), the procedures which are required under paragraphs (3), (4), (6), ~~and (7)~~ (7), *and (15)* need not be used or applied in cases where the State determines (using guidelines which are generally available within the State and which take into account the payment record of the ~~absent~~ *noncustodial* parent, the availability of other remedies, and other relevant considerations) that such use or application would not carry out the purposes of this part or would be otherwise inappropriate in the circumstances.

(b) The procedures referred to in ~~subsection (a)(1)~~ *subsection (a)(1)(A)* (relating to the withholding from income of amounts payable as support) must provide for the following:

(1) In the case of each ~~absent~~ *noncustodial* parent against whom a support order is or has been issued or modified in the State, and is being enforced under the State plan, so much of such parent's ~~wages~~ (as defined by the State for purposes of this section) *income* must be withheld, in accordance with the succeeding provisions of this subsection, as is necessary to comply with the order and provide for the payment of any fee to the employer which may be required under paragraph (6)(A), up to the maximum amount permitted under section 303(b) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)). If there are arrearages to be collected, amounts withheld to satisfy such arrearages, when added to the amounts withheld to pay current support and provide for the fee, may not exceed the limit permitted under such section 303(b), but the State need not withhold up to the maximum amount permitted under such section in order to satisfy arrearages.

(2) Such withholding must be provided without the necessity of any application therefor in the case of a child (whether or not eligible for ~~aid~~ *assistance under a State program funded* under part A) with respect to whom services are already being provided under the State plan under this part, and must be provided in accordance with this subsection on the basis of an application for services under the State plan in the case of any other child in whose behalf a support order has been issued or modified in the State. In either case such withholding must occur without the need for any amendment to the support order involved or for any further action (other than those actions required under this part) by the court or other entity which issued such order.

(3)(A) The ~~wages~~ *income* of ~~an absent~~ *a noncustodial* parent shall be subject to such withholding, regardless of whether support payments by such parent are in arrears, in the case of a support order being enforced under this part that is issued or modified on or after the first day of the 25th month beginning after the date of the enactment of this paragraph, on the effective date of the order; except that such ~~wages~~ *income* shall not be subject to such withholding under this subparagraph in any case where (i) one of the parties dem-

onstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (ii) a written agreement is reached between both parties which provides for an alternative arrangement.

(B) The **【wages】** *income* of **【an absent】** *a noncustodial* parent shall become subject to such withholding, in the case of **【wages】** *income* not subject to withholding under subparagraph (A), on the date on which the payments which the **【absent】** *noncustodial* parent has failed to make under a support order are at least equal to the support payable for one month or, if earlier, and without regard to whether there is an arrearage, the earliest of—

(i) the date as of which the **【absent】** *noncustodial* parent requests that such withholding begin,

(ii) the date as of which the custodial parent requests that such withholding begin, if the State determines, in accordance with such procedures and standards as it may establish, that the request should be approved, or

(iii) such earlier date as the State may select.

**【(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and (subject to subparagraph (B)) the State must send advance notice to each absent parent to whom paragraph (1) applies regarding the proposed withholding and the procedures such absent parent should follow if he or she desires to contest such withholding on the grounds that withholding (including the amount to be withheld) is not proper in the case involved because of mistakes of fact. If the absent parent contests such withholding on those grounds, the State shall determine whether such withholding will actually occur, shall (within no more than 45 days after the provision of such advance notice) inform such parent of whether or not withholding will occur and (if so) of the date on which it is to begin, and shall furnish such parent with the information contained in any notice given to the employer under paragraph (6)(A) with respect to such withholding.**

**【(B) The requirement of advance notice set forth in the first sentence of subparagraph (A) shall not apply in the case of any State which has a system of income withholding for child support purposes in effect on the date of the enactment of this section if such system provides on that date, and continues to provide, such procedures as may be necessary to meet the procedural due process requirements of State law.】**

*(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).*

(5) Such withholding must be administered by [a public agency designated by the State, and the amounts withheld must be expeditiously distributed by the State or such agency in accordance with section 457 under procedures (specified by the State) adequate to document payments of support and to track and monitor such payments, except that the State may establish or permit the establishment of alternative procedures for the collection and distribution of such amounts (under the supervision of such public agency) otherwise than through such public agency so long as the entity making such collection and distribution is publicly accountable for its actions taken in carrying out such procedures, and so long as such procedures will assure prompt distribution, provide for the keeping of adequate records to document payments of support, and permit the tracking and monitoring of such payments.] *the State through the State disbursement unit established pursuant to section 454B, in accordance with the requirements of section 454B.*

(6)(A)(i) The employer of any [absent] *noncustodial* parent to whom paragraph (1) applies, upon being given notice as described in clause (ii), must be required to withhold from such [absent] *noncustodial* parent's [wages] *income* the amount specified by such notice (which may include a fee, established by the State, to be paid to the employer unless waived by such employer) and pay such amount (after deducting and retaining any portion thereof which represents the fee so established) [to the appropriate agency (or other entity authorized to collect the amounts withheld under the alternative procedures described in paragraph (5)) for distribution in accordance with section 457.] *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 withhold funds as directed in the notice. For terms and conditions for withholding income that are not specified in a notice issued by another State, the employer shall apply the law of the State in which the obligor works. An employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.*

(ii) The notice given to the employer shall *be in a standard format prescribed by the Secretary, and contain only such information as may be necessary for the employer to comply with the withholding order.*

(iii) *As used in this subparagraph, the term "business day" means a day on which State offices are open for regular business.*

(B) Methods must be established by the State to simplify the withholding process for employers to the greatest extent possible, including permitting any employer to combine all withheld amounts into a single payment to each appropriate



agency or entity (with the portion thereof which is attributable to each individual employee being separately designated).

(C) The employer must be held liable to the State for any amount which such employer fails to withhold from **[wages]** *income* due an employee following receipt by such employer of proper notice under subparagraph (A), but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph.

(D) Provision must be made for the imposition of a fine against **[any employer who discharges from employment, refuses to employ, or takes disciplinary action against any absent 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.]** *any employer who—*

*(i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to income 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 income or to pay such amounts to the State disbursement unit in accordance with this subsection.*

(7) Support collection under this subsection must be given priority over any other legal process under State law against the same **[wages]** *income*.

**[(8) The State may take such actions as may be necessary to extend its system of withholding under this subsection so that such system will include withholding from forms of income other than wages, in order to assure that child support owed by absent parents in the State will be collected without regard to the types of such absent parents' income or the nature of their income-producing activities.]**

*(8) For purposes of subsection (a) and this subsection, the term "income" means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker's compensation, disability, payments pursuant to a pension or retirement program, and interest.*

*(9) The State must extend its withholding system under this subsection so that such system will include withholding from income derived within such State in cases where the applicable support orders were issued in other States, in order to assure that child support owed by **[absent]** noncustodial parents in such State or any other State will be collected without regard to the residence of the child for whom the support is payable or of such child's custodial parent.*

*(10) Provision must be made for terminating withholding.*

*(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.*

**[(c) Any State may at its option, under its plan approved under section 454, establish procedures under which support pay-**

ments under this part will be made through the State agency or other entity which administers the State's income withholding system in any case where either the absent parent or the custodial parent requests it, even though no arrearages in child support payments are involved and no income withholding procedures have been instituted; but in any such case an annual fee for handling and processing such payments, in an amount not exceeding the actual costs incurred by the State in connection therewith or \$25, whichever is less, shall be imposed on the requesting parent by the State.】

(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 INFORMATION CONTAINED IN CERTAIN RECORDS.*—*To obtain access, subject to safeguards on privacy and information security, and subject to the nonliability of entities that afford such access under this subparagraph, to information contained in 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, pursuant to an administrative subpoena authorized by subparagraph (B); and*

*(II) information (including information on assets and liabilities) on such individuals held by financial institutions.*

*(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.

(d) If a State demonstrates to the satisfaction of the Secretary, through the presentation to the Secretary of such data pertaining to caseloads, processing times, administrative costs, and average support collections, and such other data or estimates as the Secretary may specify, that the enactment of any law or the use of any procedure or procedures required by or pursuant to this section will not increase the effectiveness and efficiency of the State child support enforcement program, the Secretary may exempt the State, subject to the Secretary's continuing review and to termination of the exemption should circumstances change, from the requirement to enact the law or use the procedure or procedures involved.

(e) For purposes of this section, the term "overdue support" means the amount of a delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child which is owed to or on behalf of such child, or for support and maintenance of the [absent] *noncustodial* parent's spouse (or former spouse) with whom the child is living if and to the extent that spousal support (with respect to such spouse or former spouse) would be included for purposes of [paragraph (4) or (6) of section 454] *section 454(4)*. At the option of the State, overdue support may include amounts which otherwise meet the definition in the first sentence of this subsection but which are owed to or on behalf of a child who is not a minor child. The option to include support owed to children who are not minors shall apply independently to each procedure specified under this section.

(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.*

(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.

\* \* \* \* \*

ENCOURAGEMENT OF STATES TO ADOPT SIMPLE CIVIL PROCESS FOR VOLUNTARILY ACKNOWLEDGING PATERNITY AND A CIVIL PROCEDURE FOR ESTABLISHING PATERNITY IN CONTESTED CASES

SEC. 468. In the administration of the child support enforcement program under this part, each State is encouraged to establish and implement [a simple civil process for voluntarily acknowledging paternity and] a civil procedure for establishing paternity in contested cases.

COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA

SEC. 469. (a) The Secretary of Health and Human Services shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to each of the services specified in subsection (b) (separately stated in the case of each such service for families receiving [aid under plans approved] *assistance under State programs funded* under part A and for families not receiving [such aid] *such assistance*), on—

(1) the number of cases in the child support enforcement agency caseload under part D which need the service involved; and

(2) the number of such cases in which the service has actually been provided.

(b) The services referred to in subsection (a) are—

(1) paternity determination;

(2) location of [an absent] *a noncustodial* parent for the purpose of establishing a child support obligation;

(3) establishment of a child support obligation; and

(4) location of [an absent] *a noncustodial* parent for the purpose of enforcing or modifying an established child support obligation.

\* \* \* \* \*

**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 defendant shall be liable to the plaintiff in an amount equal to the sum of—

(A) the greater of—

(i) \$1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

(ii) the sum of—

(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

(B) the costs (including attorney's fees) of the action.

(d) *DEFINITIONS.*—For purposes of this section—

(1) *FINANCIAL INSTITUTION.*—The term “financial institution” means—

(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(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).

**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 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 1997 or 1998; 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.

#### PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

##### 【PURPOSE: APPROPRIATION】

##### **SEC. 470. PURPOSE; APPROPRIATION.**

【SEC. 470.】 For the purpose of enabling each State to provide, in appropriate cases, foster care and transitional independent living programs for children who otherwise would be eligible for assistance under the State's plan approved under part A and adoption assistance for children with special needs, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1980) such sums as may be necessary to carry out the provisions of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under 【this part】 section 422.



【STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

【SEC. 471. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

【(1) provides for foster care maintenance payments in accordance with section 472 and for adoption assistance in accordance with section 473;

【(2) provides that the State agency responsible for administering the program authorized by subpart 1 of part B of this title shall administer, or supervise the administration of, the program authorized by this part;

【(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

【(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, and under any other appropriate provision of Federal law;

【(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

【(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the “State agency”) will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

【(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

【(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, or D of this title (including activities under part F) or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency

which is authorized by law to conduct such audit or activity, and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

[(9) provides that the State agency will—

[(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B or this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

[(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;

[(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

[(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance to assure their continuing appropriateness;

[(12) provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness;

[(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

[(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1982) for each fiscal year (commencing with the fiscal year which begins on October 1, 1983) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess

of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals;

[(15) effective October 1, 1983, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home;

[(16) provides for the development of a case plan (as defined in section 475(1)) for each child receiving foster care maintenance payments under the State plan and provides for a case review system which meets the requirements described in section 475(5)(B) with respect to each such child; and

[(17) provides that, where appropriate, all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part.

[(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section.

#### [(FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

[(SEC. 472. (a) Each State with a plan approved under this part shall make foster care maintenance payments (as defined in section 475(4)) under this part with respect to a child who would meet the requirements of section 406(a) or of section 407 but for his removal from the home of a relative (specified in section 406(a)), if—

[(1) the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and (effective October 1, 1983) that reasonable efforts of the type described in section 471(a)(15) have been made;

[(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 471, or (B) any other public agency with whom the State agency administering or supervising the administration of the State plan approved under section 471 has made an agreement which is still in effect;

[(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial determination referred to in paragraph (1); and

[(4) such child—

[(A) received aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated, or

[(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living with a relative specified in section 406(a) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and

would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made.

In any case where the child is an alien disqualified under section 245A(h), 210(f), or 210A(d)(7) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements of paragraph (4) (and the corresponding requirements of section 473(a)(2)(B)), with respect to that month, if he or she would have satisfied such requirements but for such disqualification.

[(b) Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

[(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

[(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term “foster care maintenance payments” (as defined in section 475(4)).

[(c) For the purposes of this part, (1) the term “foster family home” means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term “child-care institution” means a nonprofit private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

[(d) Notwithstanding any other provision of this title, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 427(b).

[(e) No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdic-

tion (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

[(f) For the purposes of this part and part B of this title, (1) the term “voluntary placement” means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term “voluntary placement agreement” means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

[(g) In any case where—

[(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

[(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

[(the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child’s best interests.

[(h) For purposes of titles XIX and XX, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title. For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.

#### [ADOPTION ASSISTANCE PROGRAM

[SEC. 473. (a)(1)(A) Each State having a plan approved under this part shall enter into adoption assistance agreements (as defined in section 475(3)) with the adoptive parents of children with special needs.

[(B) Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

[(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, in amounts determined under paragraph (3), and

[(ii) in any case where the child meets the requirements of paragraph (2), may make adoption assistance payments to such parents, directly through the State agency or through an-

other public or nonprofit private agency, in amounts so determined.

[(2) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if such child—

[(A)(i) at the time adoption proceedings were initiated, met the requirements of section 406(a) or section 407 or would have met such requirements except for his removal from the home of a relative (specified in section 406(a)), either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or 403) or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child,

[(ii) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits, or

[(iii) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent as provided in section 475(4)(B),

[(B)(i) received aid under the State plan approved under section 402 in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated, or

[(ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section 406(a) within six months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, or

[(iii) is a child described in subparagraph (A)(ii) or (A)(iii), and

[(C) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

[(The last sentence of section 472(a) shall apply, for purposes of subparagraph (B), in any case where the child is an alien described in that sentence.)

[(3) The amount of the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B) shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment made under clause (ii) of paragraph (1)(B) exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

[(4) Notwithstanding the preceding paragraph, (A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the State determines that the child

has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one), and (B) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

[(5) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption in accordance with applicable State and local law shall be eligible for such payments, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

[(6)(A) For purposes of paragraph (1)(B)(i), the term “non-recurring adoption expenses” means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

[(B) A State’s payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(E).

[(b) For purposes of titles XIX and XX, any child—

[(1)(A) who is a child described in subsection (a)(2), and

[(B) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

[(2) with respect to whom foster care maintenance payments are being made under section 472,

shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title in the State where such child resides. For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.

[(c) For purposes of this section, a child shall not be considered a child with special needs unless—

[(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

[(2) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as

his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under title XIX, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX.

【PAYMENTS TO STATES; ALLOTMENTS TO STATES

【SEC. 474. (a) For each quarter beginning after September 30, 1980, each State which has a plan approved under this part (subject to the limitations imposed by subsection (b)) shall be entitled to a payment equal to the sum of—

【(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 472 for children in foster family homes or child-care institutions; plus

【(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements; plus

【(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the provision of child placement services and for the proper and efficient administration of the State plan—

【(A) 75 per centum of so much of such expenditures as are for the training (including both short-and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision,

【(B) 75 percent of so much of such expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective foster or adoptive parents and the members of the staff of State-licensed or State-approved child care institutions providing care to foster and adopted children receiving assistance under this part, in ways that increase the ability of such current or prospective parents, staff members, and institutions to provide support and assistance to foster and adopted children, whether incurred directly by the State or by contract,



[(C) 50 percent of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 50 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—

[(i) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

[(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

[(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and

[(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under part B or this part; and

[(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and

[(E) one-half of the remainder of such expenditures; plus

[(4) an amount equal to the sum of—

[(A) so much of the amounts expended by such State to carry out programs under section 477 as do not exceed the basic amount for such State determined under section 477(e)(1); and

[(B) the lesser of—

[(i) one-half of any additional amounts expended by such State for such programs; or

[(ii) the maximum additional amount for such State under such section 477(e)(1).

[(b)(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled under subsections (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 subsection (a), 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, (B) records showing the number of children in the State receiving assistance under this part, and (C) such other investigation as the Secretary may find necessary.

[(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such

State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

[(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

[(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a), the Secretary shall allow, disallow, or defer such claim.

[(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

[(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

[(i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or

[(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

[(I) upon completion of the review, if it is determined that the claim is not allowable; or

[(II) on the basis of findings of an audit or financial management review.

[(c) AUTOMATED DATA COLLECTION EXPENDITURES.—The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.

#### DEFINITIONS

[SEC. 475. As used in this part or part B of this title:

[(1) The term “case plan” means a written document which includes at least the following:

[(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 472(a)(1).

[(B) A plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents’ home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

[(C) To the extent available and accessible, the health and education records of the child, including—

[(i) the names and addresses of the child's health and educational providers;

[(ii) the child's grade level performance;

[(iii) the child's school record;

[(iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;

[(v) a record of the child's immunizations;

[(vi) the child's known medical problems;

[(vii) the child's medications; and

[(viii) any other relevant health and education information concerning the child determined to be appropriate by the State agency.

Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

[(2) The term "parents" means biological or adoptive parents or legal guardians, as determined by applicable State law.

[(3) The term "adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

[(4)(A) The term "foster care maintenance payments" means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

[(B) In cases where—

[(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

[(ii) payments described in subparagraph (A) are being made under this part with respect to such child, the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

[(5) The term “case review system” means a procedure for assuring that—

[(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents’ home, consistent with the best interest and special needs of the child, which—

[(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

[(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State in which the home of the parents of the child is located,

[(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship,

[(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than eighteen months after the original placement (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including, but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child’s special needs or circumstances) be continued in foster care on a permanent or long-term basis) and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to

make the transition from foster care to independent living; and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents; and

[(D) a child's health and education record (as described in paragraph (1)(A)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.

[(6) The term "administrative review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

#### [(TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

[SEC. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

[(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.

#### [(INDEPENDENT LIVING INITIATIVES

[SEC. 477. (a)(1) Payments shall be made in accordance with this section for the purpose of assisting States and localities in establishing and carrying out programs designed to assist children described in paragraph (2) who have attained age 16 in making the transition from foster care to independent living. Any State which provides for the establishment and carrying out of one or more such programs in accordance with this section for a fiscal year shall be entitled to receive payments under this section for such fiscal year, in an amount determined under subsection (e).

[(2) A program established and carried out under paragraph (1)—

[(A) shall be designed to assist children with respect to whom foster care maintenance payments are being made by the State under this part,

[(B) may at the option of the State also include any or all other children in foster care under the responsibility of the State, and

[(C) may at the option of the State also include any child who has not attained age 21 to whom foster care maintenance payments were previously made by a State under this part and whose payments were discontinued on or after the date such child attained age 16, and any child who previously was in fos-

ter care described in subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.

[(b) The State agency administering or supervising the administration of the State's programs under this part shall be responsible for administering or supervising the administration of the State's programs described in subsection (a). Payment under this section shall be made to the State, and shall be used for the purpose of conducting and providing in accordance with this section (directly or under contracts with local governmental entities or private nonprofit organizations) the activities and services required to carry out the program or programs involved.

[(c) In order for a State to receive payments under this section for any fiscal year, the State agency must submit to the Secretary, in such manner and form as the Secretary may prescribe, a description of the program together with satisfactory assurances that the program will be operated in an effective and efficient manner and will otherwise meet the requirements of this section. In the case of payments for fiscal year 1987, such description and assurances must be submitted within 90 days after the Secretary promulgates regulations as required under subsection (i), and in the case of payments for any succeeding fiscal year, such description and assurances must be submitted prior to February 1 of such fiscal year.

[(d) In carrying out the purpose described in subsection (a), it shall be the objective of each program established under this section to help the individuals participating in such program to prepare to live independently upon leaving foster care. Such programs may include (subject to the availability of funds) programs to—

[(1) enable participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training;

[(2) provide training in daily living skills, budgeting, locating and maintaining housing, and career planning;

[(3) provide for individual and group counseling;

[(4) integrate and coordinate services otherwise available to participants;

[(5) provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the program;

[(6) provide each participant a written transitional independent living plan which shall be based on an assessment of his needs, and which shall be incorporated into his case plan, as described in section 475(1); and

[(7) provide participants with other services and assistance designed to improve their transition to independent living.

[(e)(1)(A) The basic amount to which a State shall be entitled under section 474(a)(4) for fiscal year 1987 and any succeeding fiscal year shall be an amount which bears the same ratio to the basic ceiling for such fiscal year as such State's average number of children receiving foster care maintenance payments under this part

in fiscal year 1984 bears to the total of the average number of children receiving such payments under this part for all States for fiscal year 1984.

[(B) The maximum additional amount to which a State shall be entitled under section 474(a)(4) for fiscal year 1991 and any succeeding fiscal year shall be an amount which bears the same ratio to the additional ceiling for such fiscal year as the basic amount of such State bears to \$45,000,000.

[(C) As used in this section:

[(i) The term “basic ceiling” means—

[(I) for fiscal year 1990, \$50,000,000; and

[(II) for each fiscal year other than fiscal year 1990, \$45,000,000.

[(ii) The term “additional ceiling” means—

[(I) for fiscal year 1991, \$15,000,000; and

[(II) for any succeeding fiscal year, \$25,000,000.

[(2) If any State does not apply for funds under this section for any fiscal year within the time provided in subsection (c), the funds to which such State would have been entitled for such fiscal year shall be reallocated to one or more other States on the basis of their relative need for additional payments under this section (as determined by the Secretary).

[(3) Any amounts payable to States under this section shall be in addition to amounts payable to States under subsections (a)(1), (a)(2), and (a)(3) of section 474, and shall supplement and not replace any other funds which may be available for the same general purposes in the localities involved. Amounts payable under this section may not be used for the provision of room or board.

[(f) Payments made to a State under this section for any fiscal year—

[(1) shall be used only for the specific purposes described in this section;

[(2) may be made on an estimated basis in advance of the determination of the exact amount, with appropriate subsequent adjustments to take account of any error in the estimates; and

[(3) shall be expended by such State in such fiscal year or in the succeeding fiscal year.

[(Notwithstanding paragraph (3), payments made to a State under this section for the fiscal year 1987 and unobligated may be expended by such State in the fiscal year 1989.

[(g)(1) Not later than the first January 1 following the end of each fiscal year, each State shall submit to the Secretary a report on the programs carried out during such fiscal year with the amounts received under this section. Such report—

[(A) shall be in such form and contain such information as may be necessary to provide an accurate description of such activities, to provide a complete record of the purposes for which the funds were spent, and to indicate the extent to which the expenditure of such funds succeeded in accomplishing the purpose described in subsection (a); and

[(B) shall specifically contain such information as the Secretary may require in order to carry out the evaluation under paragraph (2).

[(2)(A) Not later than July 1, 1988, the Secretary shall submit an interim report on the activities carried out under this section.

[(B) Not later than March 1, 1989, the Secretary, on the basis of the reports submitted by States under paragraph (1) for the fiscal years 1987 and 1988, and on the basis of such additional information as the Secretary may obtain or develop, shall evaluate the use by States of the payments made available under this section for such fiscal year with respect to the purpose of this section, with the objective of appraising the achievements of the programs for which such payments were made available, and developing comprehensive information and data on the basis of which decisions can be made with respect to the improvement of such programs and the necessity for providing further payments in subsequent years. The Secretary shall report such evaluation to the Congress. As a part of such evaluation, the Secretary shall include, at a minimum, a detailed overall description of the number and characteristics of the individuals served by the programs, the various kinds of activities conducted and services provided and the results achieved, and shall set forth in detail findings and comments with respect to the various State programs and a statement of plans and recommendations for the future.

[(h) Notwithstanding any other provision of this title, payments made and services provided to participants in a program under this section, as a direct consequence of their participation in such program, shall not be considered as income or resources for purposes of determining eligibility (or the eligibility of any other persons) for aid under the State's plan approved under section 402 or 471, or for purposes of determining the level of such aid.

[(i) The Secretary shall promulgate final regulations for implementing this section within 60 days after the date of the enactment of this section

#### [COLLECTION OF DATA RELATING TO ADOPTION AND FOSTER CARE

[SEC. 479. (a)(1) Not later than 90 days after the date of the enactment of this subsection, the Secretary shall establish an Advisory Committee on Adoption and Foster Care Information (in this section referred to as the "Advisory Committee") to study the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States.

[(2) The study required by paragraph (1) shall—

[(A) identify the types of data necessary to—

[(i) assess (on a continuing basis) the incidence, characteristics, and status of adoption and foster care in the United States, and

[(ii) develop appropriate national policies with respect to adoption and foster care;

[(B) evaluate the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies;

[(C) assess the validity of various methods of collecting data with respect to adoption and foster care; and



[(D) evaluate the financial and administrative impact of implementing each such method.

[(3) Not later than October 1, 1987, the Advisory Committee shall submit to the Secretary and the Congress a report setting forth the results of the study required by paragraph (1) and evaluating and making recommendations with respect to the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States.

[(4)(A) Subject to subparagraph (B), the membership and organization of the Advisory Committee shall be determined by the Secretary.

[(B) The membership of the Advisory Committee shall include representatives of—

[(i) private, nonprofit organizations with an interest in child welfare (including organizations that provide foster care and adoption services),

[(ii) organizations representing State and local governmental agencies with responsibility for foster care and adoption services,

[(iii) organizations representing State and local governmental agencies with responsibility for the collection of health and social statistics,

[(iv) organizations representing State and local judicial bodies with jurisdiction over family law,

[(v) Federal agencies responsible for the collection of health and social statistics, and

[(vi) organizations and agencies involved with privately arranged or international adoptions.

[(5) After the date of the submission of the report required by paragraph (3), the Advisory Committee shall cease to exist.

[(b)(1)(A) Not later than July 1, 1988, the Secretary shall submit to the Congress a report that—

[(i) proposes a method of establishing, administering, and financing a system for the collection of data relating to adoption and foster care in the United States,

[(ii) evaluates the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies, and

[(iii) evaluates the impact of the system proposed under clause (i) on the agencies with responsibility for implementing it.

[(B) The report required by subparagraph (A) shall—

[(i) specify any changes in law that will be necessary to implement the system proposed under subparagraph (A)(i), and

[(ii) describe the type of system that will be implemented under paragraph (2) in the absence of such changes.

[(2) Not later than December 31, 1988, the Secretary shall promulgate final regulations providing for the implementation of—

[(A) the system proposed under paragraph (1)(A)(i), or

[(B) if the changes in law specified pursuant to paragraph (1)(B)(i) have not been enacted, the system described in paragraph (1)(B)(ii).

Such regulations shall provide for the full implementation of the system not later than October 1, 1991.

[(c) Any data collection system developed and implemented under this section shall—

[(1) avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;

[(2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;

[(3) provide comprehensive national information with respect to—

[(A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents,

[(B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care),

[(C) the number and characteristics of—

[(i) children placed in or removed from foster care,

[(ii) children adopted or with respect to whom adoptions have been terminated, and

[(iii) children placed in foster care outside the State which has placement and care responsibility, and

[(D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided; and

[(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.

#### [PART F—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

##### [PURPOSE AND DEFINITIONS

[SEC. 481. (a) PURPOSE.—It is the purpose of this part to assure that needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependence.

[(b) MEANING OF TERMS.—Except to the extent otherwise specifically indicated, terms used in this part shall have the meanings given them in or under part A.

##### [ESTABLISHMENT AND OPERATION OF STATE PROGRAMS

[SEC. 482. (a) State Plans for Job Opportunities and Basic Skills Training Programs.—(1)(A) As a condition of its participation in the program of aid to families with dependent children under part A, each State shall establish and operate a job opportunities and basic skills training program (in this part referred to as the “program”) under a plan approved by the Secretary as meeting all of the requirements of this part and section 402(a)(19), and shall, in accordance with regulations prescribed by the Secretary, periodi-

cally (but not less frequently than every 2 years) review and update its plan and submit the updated plan for approval by the Secretary.

[(B) A State plan for establishing and operating the program must describe how the State intends to implement the program during the period covered by the plan, and must indicate, through cross-references to the appropriate provisions of this part and part A, that the program will be operated in accordance with such provision of law. In addition, such plan must contain (i) an estimate of the number of persons to be served by the program, (ii) a description of the services to be provided within the State and the political subdivisions thereof, the needs to be addressed through the provision of such services, the extent to which such services are expected to be made available by other agencies on a nonreimbursable basis, and the extent to which such services are to be provided or funded by the program, and (iii) such additional information as the Secretary may require by regulation to enable the Secretary to determine that the State program will meet all of the requirements of this part and part A.

[(C) The Secretary shall consult with the Secretary of Labor on general plan requirements and on criteria to be used in approving State plans under this section.

[(D)(i) Not later than October 1, 1992, each State shall make the program available in each political subdivision of such State where it is feasible to do so, after taking into account the number of prospective participants, the local economy, and other relevant factors.

[(ii) If a State determines that it is not feasible to make the program available in each such subdivision, the State plan must provide appropriate justification to the Secretary.

[(2) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall be responsible for the administration or supervision of the administration of the State's program.

[(3) Federal funds made available to a State for purposes of the program shall not be used to supplant non-Federal funds for existing services and activities which promote the purpose of this part. State or local funds expended for such purpose shall be maintained at least at the level of such expenditures for the fiscal year 1986.

[(b) ASSESSMENT AND REVIEW OF NEEDS AND SKILLS OF PARTICIPANTS; EMPLOYABILITY PLAN.—(1)(A) The State agency must make an initial assessment of the educational, child care, and other supportive services needs as well as the skills, prior work experience, and employability of each participant in the program under this part, including a review of the family circumstances. The agency may also review the needs of any child of the participant.

[(B) On the basis of such assessment, the State agency, in consultation with the participant, shall develop an employability plan for the participant. The employability plan shall explain the services that will be provided by the State agency and the activities in which the participant will take part under the program, including child care and other supportive services, shall set forth an employment goal for the participant, and shall, to the maximum extent

possible and consistent with this section, reflect the respective preferences of such participant. The plan must take into account the participant's supportive services needs, available program resources, and local employment opportunities. The employability plan shall not be considered a contract.

[(2) Following the initial assessment and review and the development of the employability plan with respect to any participant in the program, the State agency may require the participant (or the adult caretaker in the family of which the participant is a member) to negotiate and enter into an agreement with the State agency that specifies such matters as the participant's obligations under the program, the duration of participation in the program, and the activities to be conducted and the services to be provided in the course of such participation. If the State agency exercises the option under the preceding sentence, the State agency must give the participant such assistance as he or she may require in reviewing and understanding the agreement.

[(3) The State agency may assign a case manager to each participant and the participant's family. The case manager so assigned must be responsible for assisting the family to obtain any services which may be needed to assure effective participation in the program.

[(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—

(1) The State agency must ensure that all applicants for and recipients of aid to families with dependent children are encouraged, assisted, and required to fulfill their responsibilities to support their children by preparing for, accepting, and retaining such employment as they are capable of performing.

[(2) The State agency must inform all applicants for and recipients of aid to families with dependent children of the education, employment, and training opportunities, and the support services (including child care and health coverage transition options), for which they are eligible, the obligations of the State agency, and the rights, responsibilities, and obligations of participants in the program.

[(3) The State agency must—

[(A) provide (directly or through arrangements with others) information on the types and locations of child care services reasonably accessible to participants in the program,

[(B) inform participants that assistance is available to help them select appropriate child care services, and

[(C) on request, provide assistance to participants in obtaining child care services.

[(4) The State agency must inform applicants for and recipients of aid to families with dependent children of the grounds for exemption from participation in the program and the consequences of refusal to participate if not exempt, and provide other appropriate information with respect to such participation.

[(5) Within one month after the State agency gives a recipient of aid to families with dependent children the information described in the preceding provisions of this paragraph, the State agency must notify such recipient of the opportunity to indicate his or her desire to participate in the program, including a clear description of how to enter the program.

[(d) SERVICES AND ACTIVITIES UNDER THE PROGRAM.—(1)(A) In carrying out the program, each State shall make available a broad range of services and activities to aid in carrying out the purpose of this part. Such services and activities—

[(i) shall include—

[(I) educational activities (as appropriate), including high school or equivalent education (combined with training as needed), basic and remedial education to achieve a basic literacy level, and education for individuals with limited English proficiency;

[(II) job skills training;

[(III) job readiness activities to help prepare participants for work; and

[(IV) job development and job placement; and

[(ii) must also include at least 2 of the following:

[(I) group and individual job search as described in subsection (g);

[(II) on-the-job training;

[(III) work supplementation programs as described in subsection (e); and

[(IV) community work experience programs as described in subsection (f) or any other work experience program approved by the Secretary.

[(B) The State may also offer to participants under the program (i) postsecondary education in appropriate cases, and (ii) such other education, training, and employment activities as may be determined by the State and allowed by regulations of the Secretary.

[(2) If the State requires an individual who has attained the age of 20 years and has not earned a high school diploma (or equivalent) to participate in the program, the State agency shall include educational activities consistent with his or her employment goals as a component of the individual's participation in the program, unless the individual demonstrates a basic literacy level, or the employability plan for the individual identifies a long-term employment goal that does not require a high school diploma (or equivalent). Any other services or activities to which such a participant is assigned may not be permitted to interfere with his or her participation in an appropriate educational activity under this subparagraph.

[(3) Notwithstanding any other provision of this section, the Secretary shall permit up to 5 States to provide services under the program, on a voluntary or mandatory basis, to non-custodial parents who are unemployed and unable to meet their child support obligations. Any State providing services to non-custodial parents pursuant to this paragraph shall evaluate the provision of such services, giving particular attention to the extent to which the provision of such services to those parents is contributing to the achievement of the purpose of this part, and shall report the results of such evaluation to the Secretary.

[(e) WORK SUPPLEMENTATION PROGRAM.—(1) Any State may institute a work supplementation program under which such State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as aid to families with dependent children and use such sums instead for

the purpose of providing and subsidizing jobs for such participants (as described in paragraph (3)(C)(i) and (ii)), as an alternative to the aid to families with dependent children that would otherwise be so payable to them.

[(2)(A) Notwithstanding section 406 or any other provision of law, Federal funds may be paid to a State under part A, subject to this subsection, with respect to expenditures incurred in operating a work supplementation program under this subsection.

[(B) Nothing in this part, or in any State plan approved under part A, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this subsection and section 484.

[(C) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this subsection.

[(D) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this subsection may provide that the need standards in effect in those areas of the State in which such program is in operation may be different from the need standards in effect in the areas in which such program is not in operation, and such State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

[(E) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of the aid to families with dependent children paid under the plan to different categories of recipients (as determined under subparagraph (D)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under part A) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

[(F) In determining the amounts to be reserved and used for providing and subsidizing jobs under this subsection as described in paragraph (1), the State may use a sampling methodology.

[(G) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this subsection (i) may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program, and (ii) during one or more of the first 9 months of an individual's employment pursuant to a program under this section, may apply to the wages of the individual the provisions of subparagraph (A)(iv) of section 402(a)(8) without regard to the provisions of subparagraph (B)(ii)(II) of such section.

[(3)(A) A work supplementation program operated by a State under this subsection may provide that any individual who is an eligible individual (as determined under subparagraph (B)) shall take a supplemented job (as defined in subparagraph (C)) to the extent that supplemented jobs are available under the program. Pay-

ments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for aid to families with dependent children except as limited by paragraph (4).

[(B) For purposes of this subsection, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for aid to families with dependent children under an approved State plan if such State did not have a work supplementation program in effect.

[(C) For purposes of this section, a supplemented job is—

[(i) a job provided to an eligible individual by the State or local agency administering the State plan under part A; or

[(ii) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by such State or local agency.

A State may provide or subsidize under the program any job which such State determines to be appropriate.

[(D) At the option of the State, individuals who hold supplemented jobs under a State's work supplementation program shall be exempt from the retrospective budgeting requirements imposed pursuant to section 402(a)(13)(A)(ii) (and the amount of the aid which is payable to the family of any such individual for any month, or which would be so payable but for the individual's participation in the work supplementation program, shall be determined on the basis of the income and other relevant circumstances in that month).

[(4) The amount of the Federal payment to a State under section 403 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in such State under this subsection had received the maximum amount of aid to families with dependent children payable under the State plan to such a family with no income (without regard to adjustments under paragraph (2)) for the lesser of (A) 9 months, or (B) the number of months in which such individual was employed in such program.

[(5)(A) Nothing in this subsection shall be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom it provides a job under the work supplementation program (or with respect to whom it provides all or part of the wages paid to the individual by another entity under such program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under such program be provided employee status by such entity during the first 13 weeks such individual fills that position.

[(B) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

[(6) Any State that chooses to operate a work supplementation program under this subsection shall provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for aid to families with dependent children under the State plan approved under part A if such State did not have a work supplementation program, shall be considered individuals receiving aid to families with dependent children under the State plan approved under part A for purposes of eligibility for medical assistance under the State plan approved under title XIX.

[(7) No individual receiving aid to families with dependent children under a State plan shall be excused by reason of the fact that such State has a work supplementation program from any requirement of this part relating to work requirements, except during periods in which such individual is employed under such work supplementation program.

[(f) COMMUNITY WORK EXPERIENCE PROGRAM.—(1)(A) Any State may establish a community work experience program in accordance with this subsection. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be used in making appropriate work experience assignments.

[(B)(i) A State that elects to establish a community work experience program under this subsection shall operate such program so that each participant (as determined by the State) either works or undergoes training (or both) with the maximum number of hours that any such individual may be required to work in any month being a number equal to the amount of the aid to families with dependent children payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal minimum wage or the applicable State minimum wage (and the portion of a recipient's aid for which the State is reimbursed by a child support collection shall not be taken into account in determining the number of hours that such individual may be required to work).

[(ii) After an individual has been assigned to a position in a community work experience program under this subsection for 9 months, such individual may not be required to continue in that assignment unless the maximum number of hours of participation is no greater than (I) the amount of the aid to families with dependent children payable with respect to the family of which such indi-



vidual is a member under the State plan approved under this part (excluding any portion of such aid for which the State is reimbursed by a child support payment), divided by (II) the higher of (a) the Federal minimum wage or the applicable State minimum wage, whichever is greater, or (b) the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

[(C) Nothing contained in this subsection shall be construed as authorizing the payment of aid to families with dependent children as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this subsection.

[(D) Nothing in this part or in any State plan approved under this part shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a community work experience program in accordance with this subsection and subsection (d).

[(E) Participants in community work experience programs under this subsection may perform work in the public interest (which otherwise meets the requirements of this subsection) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

[(2) After each 6 months of an individual's participation in a community work experience program under this subsection, and at the conclusion of each assignment of the individual under such program, the State agency must provide a reassessment and revision, as appropriate, of the individual's employability plan.

[(3) The State agency shall provide coordination among a community work experience program operated pursuant to this subsection, any program of job search under subsection (g), and the other employment-related activities under the program established by this section so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in more than one such program are not denied aid to families with dependent children on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in another. The State agency may provide that part-time participation in more than one such program may be required where appropriate.

[(4) In the case of any State that makes expenditures in the form described in paragraph (1) under its State plan approved under section 482(a)(1), expenditures for the operation and administration of the program under this section may not include, for purposes of section 403, the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in paragraph (1) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.

[(g) JOB SEARCH PROGRAM.—(1) The State agency may establish and carry out a program of job search for individuals participating in the program under this part.

[(2) Notwithstanding section 402(a)(19)(B)(i), the State agency may require job search by an individual applying for or receiving aid to families with dependent children (other than an individual described in section 402(a)(19)(C) who is not an individual with respect to whom section 402(a)(19)(D) applies)—

[(A) subject to the next to last sentence of this paragraph, beginning at the time such individual applies for aid to families with dependent children and continuing for a period (prescribed by the State) of not more than 8 weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for such aid or in issuing a payment to or on behalf of any individual who is otherwise eligible for such aid); and

[(B) at such time or times after the close of the period prescribed under subparagraph (A) as the State agency may determine but not to exceed a total of 8 weeks in any period of 12 consecutive months.

In no event may an individual be required to participate in job search for more than 3 weeks before the State agency conducts the assessment and review with respect to such individual under subsection (b)(1)(A). Job search activities in addition to those required under the preceding provisions of this paragraph may be required only in combination with some other education, training, or employment activity which is designed to improve the individual's prospects for employment.

[(3) Job search by an individual under this subsection shall in no event be treated, for any purpose, as an activity under the program if the individual has participated in such job search for 4 months out of the preceding 12 months.

[(h) DISPUTE RESOLUTION PROCEDURES.—Each State shall establish a conciliation procedure for the resolution of disputes involving an individual's participation in the program and (if the dispute involved is not resolved through conciliation) shall provide an opportunity for a hearing with respect to the dispute, which hearing may be provided through a hearing process established for purposes of resolving disputes with respect to the program or through the provision of a hearing pursuant to section 402(a)(4); but in no event shall aid to families with dependent children be suspended, reduced, discontinued, or terminated as a result of a dispute involving an individual's participation in the program until such individual has an opportunity for a hearing that meets the standards set forth by the United States Supreme Court in *Goldberg v. Kelly*, 397 U.S. 254 (1970).

[(i) SPECIAL PROVISIONS RELATING TO INDIAN TRIBES.—(1) Within 6 months after the date of the enactment of the Family Support Act of 1988, an Indian tribe or Alaska Native organization may apply to the Secretary to conduct a job opportunities and basic skills training program to carry out the purpose of this subsection. If the Secretary approves such tribe's or organization's application, the maximum amount that may be paid to the State under section 403(l) in which such tribe or organization is located shall be reduced by the Secretary in accordance with paragraph (2) and an amount equal to the amount of such reduction shall be paid directly to such tribe or organization (without the requirement of any

nonfederal share) for the operation of such program. In determining whether to approve an application from an Alaska Native organization, the Secretary shall consider whether approval of the application would promote the efficient and nonduplicative administration of job opportunities and basic skills training programs in the State.

[(2) The amount of the reduction under paragraph (1) with respect to any State in which is located an Indian tribe or Alaska Native organization with an application approved under such paragraph shall be an amount equal to the amount that bears the same ratio to the maximum amount that could be paid under section 403(l) to the State as—

[(A) the number of adult Indians receiving aid to families with dependent children who reside on the reservation or within the designated service area bears to the number of all such adult recipients in the State, or

[(B) the number of adult Alaska Natives receiving aid to families with dependent children who reside within the boundaries of such Alaska Native organization bears to the number of all such adult recipients in the State of Alaska.

[(3) The job opportunities and basic skills training program set forth in the application of an Indian tribe or Alaska Native organization under paragraph (1) need not meet any requirement of the program under this part or under section 402(a)(19) that the Secretary determines is inappropriate with respect to such job opportunities and basic skills training program.

[(4) The job opportunities and basic skills training program of any Indian tribe or Alaska Native organization may be terminated voluntarily by such tribe or Alaska Native organization or may be terminated by the Secretary upon a finding that the tribe or Alaska Native organization is not conducting such program in substantial conformity with the terms of the application approved by the Secretary, and the maximum amount that may be paid under section 403(l) to the State within which the tribe or Alaska Native organization is located (as reduced pursuant to paragraph (1)) shall be increased by any portion of the amount retained by the Secretary with respect to such program (and not payable to such tribe or Alaska Native organization for obligations already incurred). The reduction under paragraph (1) shall in no event apply to a State for any fiscal year beginning after such program is terminated if no other such program remains in operation in the State.

[(5) For purposes of this subsection, an Indian tribe is any tribe, band, nation, or other organized group or community of Indians that—

[(A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

[(B) for which a reservation (as defined in paragraph (6)) exists.

[(6) For purposes of this subsection, a reservation includes Indian reservations, public domain Indian allotments, and former Indian reservations in Oklahoma.

[(7) For purposes of this subsection—

[(A) an Alaska Native organization is any organized group of Alaska Natives eligible to operate a Federal program under Public Law 93-638 or such group's designee;

[(B) the boundaries of an Alaska Native organization shall be those of the geographical region, established pursuant to section 7(a) of the Alaska Native Claims Settlement Act, within which the Alaska Native organization is located (without regard to the ownership of the land within the boundaries);

[(C) the Secretary may approve only one application from an Alaska Native organization for each of the 12 geographical regions established pursuant to section 7(a) of the Alaska Native Claims Settlement Act; and

[(D) any Alaska Native, otherwise eligible or required to participate in a job opportunities and basic skills training program, residing within the boundaries of an Alaska Native organization whose application has been approved by the Secretary, shall be eligible to participate in the job opportunities and basic skills training program administered by such Alaska Native organization.

[(8) Nothing in this subsection shall be construed to grant or defer any status or powers other than those expressly granted in this subsection or to validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

#### COORDINATION REQUIREMENTS

[SEC. 483. (a)(1) The Governor of each State shall assure that program activities under this part are coordinated in that State with programs operated under the Job Training Partnership Act and with any other relevant employment, training, and education programs available in that State. Appropriate components of the State's plan developed under section 482(a)(1) which relate to job training and work preparation shall be consistent with the coordination criteria specified in the Governor's coordination and special services plan required under section 121 of the Job Training Partnership Act.

[(2) The State plan so developed shall be submitted to the State job training coordinating council not less than 60 days before its submission to the Secretary, for the purpose of review and comment by the council. Concurrent with submission of the plan to the State job training coordinating council, the proposed State plan shall be published and made reasonably available to the general public through local news facilities and public announcements, in order to provide the opportunity for review and comment.

[(3) The comments and recommendations of the State job training coordinating council under paragraph (2) shall be transmitted to the Governor of the State.

[(b) The Secretary of Health and Human Services shall consult with the Secretaries of Education and Labor on a continuing basis for the purpose of assuring the maximum coordination of education and training services in the development and implementation of the program under this part.

[(c) The State agency responsible for administering or supervising the administration of the State plan approved under part A shall consult with the State education agency and the agency re-

sponsible for administering job training programs in the State in order to promote coordination of the planning and delivery of services under the program with programs operated under the Job Training Partnership Act and with education programs available in the State (including any program under the Adult Education Act.

**[PROVISIONS GENERALLY APPLICABLE TO PROVISION OF SERVICES**

**[SEC. 484. (a)** In assigning participants in the program under this part to any program activity, the State agency shall assure that—

**[(1)** each assignment takes into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of the participant;

**[(2)** no participant will be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight;

**[(3)** individuals are not discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State, or local law prohibiting discrimination;

**[(4)** the conditions of participation are reasonable, taking into account in each case the proficiency of the participant and the child care and other supportive services needs of the participant; and

**[(5)** each assignment is based on available resources, the participant's circumstances, and local employment opportunities.

**[(b)** Appropriate workers' compensation and tort claims protection must be provided to participants on the same basis as they are provided to other individuals in the State in similar employment (as determined under regulations of the Secretary).

**[(c)** No work assignment under the program shall result in—

**[(1)** the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements;

**[(2)** the employment or assignment of a participant or the filling of a position when (A) any other individual is on layoff from the same or any equivalent position, or (B) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant subsidized under the program; or

**[(3)** any infringement of the promotional opportunities of any currently employed individual.

Funds available to carry out the program under this part may not be used to assist, promote, or deter union organizing. No participant may be assigned under section 482(e) or (f) to fill any established unfilled position vacancy.

**[(d)(1)** The State shall establish and maintain (pursuant to regulations jointly issued by the Secretary and the Secretary of Labor) a grievance procedure for resolving complaints by regular

employees or their representatives that the work assignment of an individual under the program violates any of the prohibitions described in subsection (c). A decision of the State under such procedure may be appealed to the Secretary of Labor for investigation and such action as such Secretary may find necessary.

[(2) The State shall hear complaints with respect to working conditions and workers' compensation, and wage rates in the case of individuals participating in community work experience programs described in section 482(f), under the State's fair hearing process. A decision of the State under such process may be appealed to the Secretary of Labor under such conditions as the joint regulations issued under subsection (f) may provide.

[(e) The provisions of this section apply to any work-related programs and activities under this part, and under any other work-related programs and activities authorized (in connection with the AFDC program) under section 1115.

[(f) The Secretary of Health and Human Services and the Secretary of Labor shall jointly prescribe and issue regulations for the purpose of implementing and carrying out the provisions of this section, in accordance with the timetable established in section 203(a) of the Family Support Act of 1988

#### 【CONTRACT AUTHORITY

【SEC. 485. (a) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall carry out the programs under this part directly or through arrangements or under contracts with administrative entities under section 4(2) of the Job Training Partnership Act, with State and local educational agencies, and with other public agencies or private organizations (including community-based organizations as defined in section 4(5) of such Act).

【(b) Arrangements and contracts entered into under subsection (a) may cover any service or activity (including outreach) to be made available under the program to the extent that the service or activity is not otherwise available on a nonreimbursable basis.

【(c) The State agency and private industry councils (as established under section 102 of the Job Training Partnership Act) shall consult on the development of arrangements and contracts under the program established under a plan approved under section 482(a)(1), and under programs established under such Act.

【(d) In selecting service providers, the State agency shall take into account appropriate factors which may include past performance in providing similar services, demonstrated effectiveness, fiscal accountability, ability to meet performance standards, and such other factors as the State may determine to be appropriate.

【(e) The State agency shall use the services of each private industry council to identify and provide advice on the types of jobs available or likely to become available in the service delivery area (as defined in the Job Training Partnership Act) of the council, and shall ensure that the State program provides training in any area for jobs of a type which are, or are likely to become, available in the area.

# 【INITIAL STATE EVALUATIONS

【SEC. 486. (a) With the objective of—

【(1) providing an in-depth assessment of potential participants in the program under this part in each State, so as to furnish an accurate picture on which to base estimates of future demands for services in conducting such program and to improve the efficiency of targeting under such program,

【(2) assuring that training for recipients of aid under such program will be realistically geared to labor market demands and that the program will produce individuals with marketable skills, while avoiding duplication and redundancy in the delivery of services, and

【(3) otherwise assuring that States will have the information needed to carry out the purposes of the program, each State may undertake and carry out an evaluation of demographic characteristics of potential participants in the program under this part within the 12-month period beginning on the date of the enactment of the Family Support Act of 1988 Such evaluation shall be carried out in each State by the agency which administers the State's program approved under section 402.

【(b) In carrying out the evaluation under subsection (a) the State shall give particular attention to the current and anticipated demands of the labor market or markets within the State, the types of training which are needed to meet those demands, and any changes in the current service delivery systems which may be needed to satisfy the requirements of the program under this part.

【(c) The evaluation shall be structured so as to produce accurate and usable information on the age, family status, educational and literacy levels, duration of eligibility for aid to families with dependent children, and work experience of the individuals and families who are potential participants in the program under this part, including the actual numbers of such individuals and families in each such category.

【(d) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall provide each State with such technical assistance and data as it may need in order to carry out its evaluation under subsection (a); and each State shall transmit its evaluation to the Secretary by the close of the 12-month period specified in such subsection. The Secretary of Health and Human Services shall take such evaluations into account in developing performance standards.

【(e) As used in this section, the term “potential participants” with respect to any State's program under this part means collectively all individuals in such State who are recipients of aid to families with dependent children under part A and who are members of the target populations identified in section 403(1)(2).

# 【PERFORMANCE STANDARDS

【SEC. 487. (a) Not later than 4 years after the effective date specified in section 204(a) of the Family Support Act of 1988 , the Secretary shall—

【(1) in consultation with the Secretary of Labor, representatives of organizations representing Governors, State and local

program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, develop criteria for performance standards with respect to the programs established pursuant to this part that are based, in part, on the results of the studies conducted under section 203(c) of such Act, and the initial State evaluations (if any) performed under section 486 of this Act; and

[(2) submit his recommendations with respect to performance standards developed under paragraph (1) to the appropriate committees of jurisdiction of the Congress, which recommendations shall be made with respect to specific measurements of outcomes and be based on the degree of success which may reasonably be expected of States in helping individuals to increase earnings, achieve self-sufficiency, and reduce welfare dependency, and shall not be measured solely by levels of activity or participation.

Performance standards developed with respect to the program under this part shall be reviewed periodically by the Secretary and modified to the extent necessary.

[(b) The Secretary may collect information from the States to assist in the development of performance standards under subsection (a), and shall include in his regulations (issued pursuant to section 203(a) of the Family Support Act of 1988 with respect to the program under this part) provisions establishing uniform reporting requirements under which States must furnish periodically information and data, including information and data (for each program activity) on the average monthly number of families assisted, the types of such families, the amounts spent per family, the length of their participation, and such other matters as the Secretary may determine.

[(c) The Secretary shall develop and transmit to the Congress, for appropriate legislative action, a proposal for measuring State progress, providing technical assistance to enable States to meet performance standards, and modifying the Federal matching rate to reflect the relative effectiveness of the various States in carrying out the program.]

**SEC. 471. ELIGIBLE STATES.**

*In order for a State to be eligible for payments under this part, the State shall have submitted to the Secretary a plan which satisfies the requirements of section 422.*

**SEC. 472. REQUIREMENTS FOR FOSTER CARE MAINTENANCE PAYMENTS.**

(a) *IN GENERAL.*—Each State operating a program under this part shall make foster care maintenance payments, as defined in section 426(6) with respect to a child who would meet the requirements of section 406(a) (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996) or of section 407 (as so in effect) but for the removal of the child from the home of a relative (specified in section 406(a) (as so in effect)), if—

(1) *the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent*



or legal guardian, or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and that reasonable efforts of the type described in section 422(a)(12) have been made;

(2) such child's placement and care are the responsibility of—

(A) the State; or

(B) any other public agency with which the State has made an agreement for the administration of the State program under this part which is still in effect;

(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial determination referred to in paragraph (1); and

(4) such child—

(A) would have been eligible to receive aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this part and adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated; or

(B) would have received such aid in or for such month if application had been made therefor, or the child had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefor had been made.

(b) **LIMITATION ON FOSTER CARE PAYMENTS.**—Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

(1) in the foster family home of an individual, whether the payments therefore are made to such individual or to a public or private child placement or child-care agency; or

(2) in a child-care institution, whether the payments therefore are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term “foster care maintenance payments” (as defined in section 426(6)).

(c) **VOLUNTARY PLACEMENTS.**—

(1) **SATISFACTION OF CHILD PROTECTION STANDARDS.**—Notwithstanding any other provision of this section, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this part, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 422(a)(11).

(2) *REMOVAL IN EXCESS OF 180 DAYS.*—No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments, in the case of any child who was removed from such child's home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) that such placement is in the best interests of the child.

(3) *DEEMED REVOCATION OF AGREEMENTS.*—In any case where—

(A) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a); and

(B) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative, the voluntary placement agreement shall be deemed to be revoked unless the State opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

(d) *ELIGIBILITY FOR MEDICAL ASSISTANCE.*—For purposes of title XIX (or, if applicable, title XV) and title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a recipient of cash assistance under part A of this title. For the purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 426(6)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.

**SEC. 473. REQUIREMENTS FOR ADOPTION ASSISTANCE PAYMENTS.**

(a) *IN GENERAL.*—A State operating a program under this part shall enter into adoption assistance agreements with the adoptive parents of children with special needs.

(b) *PAYMENTS UNDER AGREEMENTS.*—

(1) *IN GENERAL.*—Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs, the State—

(A) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, in amounts determined under subsection (e), and

(B) in any case where the child meets the requirements of subsection (d), may make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

(2) *DEFINITION OF NONRECURRING ADOPTION EXPENSES.*—

(A) *IN GENERAL.*—For purposes of paragraph (1)(A), the term “nonrecurring adoption expenses” means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

(B) *TREATMENT AS AN ADMINISTRATIVE EXPENSE.*—A State’s payment of nonrecurring adoption expenses under an adoption assistance agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(E).

(c) *ELIGIBILITY FOR MEDICAL ASSISTANCE.*—For purposes of title XIX (or, if applicable, title XV) and title XX, any child—

(1)(A) who is a child described in subsection (b), and

(B) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

(2) with respect to whom foster care maintenance payments are being made under section 472, is deemed to be a recipient of cash assistance under part A of this title in the State where such child resides. For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 426(6)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.

(d) *CHILDREN WITH SPECIAL NEEDS.*—For purposes of subsection (b)(1)(B), a child meets the requirements of this subsection if such child—

(1)(A) at the time adoption proceedings were initiated, met the requirements of section 406(a) (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996) or section 407 (as so in effect) or would have met such requirements except for such child’s removal from the home of a relative (specified in section 406(a) (as so in effect)), either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or 403 (as so in effect)) or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

(B) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

(C) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent;

(2)(A) would have received aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this part, adjusted for inflation, in accordance with regulations issued by

*the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated;*

*(B) would have received such aid in or for such month if application had been made therefor, or had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefor had been made; or*

*(C) is a child described in subparagraph (A) or (B); and*

*(3) has been determined by the State, pursuant to subsection (h) of this section, to be a child with special needs.*

*(e) DETERMINATION OF PAYMENTS.—The amount of the payments to be made in any case under subsection (b) shall be determined through agreement between the adoptive parents and the State or a public or nonprofit private agency administering the program under this part, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.*

*(f) PAYMENT EXCEPTION.—Notwithstanding subsection (e), no payment may be made to parents with respect to any child who has attained the age of 18 (or, where the State determines that the child has a mental or physical disability which warrants the continuation of assistance, the age of 21), and no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this part shall keep the State or public or nonprofit private agency administering the program under this part informed of circumstances which would, pursuant to this section, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.*

*(g) PREADoption PAYMENTS.—For purposes of this part, individuals with whom a child who has been determined by the State, pursuant to subsection (h), to be a child with special needs is placed for adoption in accordance with applicable State and local law shall be eligible for adoption assistance payments during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.*

*(h) DETERMINATION OF CHILD WITH SPECIAL NEEDS.—For purposes of this section, a child shall not be considered a child with special needs unless—*

*(1) the State has determined that the child cannot or should not be returned to the home of the child's parents; and*

(2) the State had first determined—

(A) that there exists with respect to the child a specific factor or condition such as the child's ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this part or medical assistance under title XV or XIX; and

(B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XV or XIX.

**SEC. 474. PAYMENTS TO STATES; ALLOTMENTS TO STATES.**

(a) **FOSTER CARE, ADOPTION ASSISTANCE, AND INDEPENDENT LIVING PROGRAMS PAYMENTS.**—Each eligible State, as determined under section 471, shall be entitled to receive from the Secretary for each quarter of each fiscal year a payment equal to the sum of—

(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1996) of the total amount expended during such quarter as foster care maintenance payments under the child protection program under this part for children in foster family homes or child-care institutions; plus

(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act (as so in effect)) of the total amount expended during such quarter as adoption assistance payments under the child protection program under this part pursuant to adoption assistance agreements; plus

(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the provision of child placement services and for the proper and efficient administration of the State foster care and adoption assistance program—

(A) 75 percent of so much of such expenditures as are for the training (including both short and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision;

(B) 75 percent of so much of such expenditures (including travel and per diem expenses) as are for the short-term training of current or prospective foster or adoptive parents and the members of the staff of State-licensed or State-approved child care institutions providing care to foster and adopted children receiving assistance under this part, in

*ways that increase the ability of such current or prospective parents, staff members, and institutions to provide support and assistance to foster and adopted children, whether incurred directly by the State or by contract;*

*(C) 50 percent (or, if the quarter is in fiscal year 1997, 75 percent) of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 50 percent (or, if the quarter is in fiscal year 1997, 75 percent) of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—*

*(i) meet the requirements imposed by regulations;*

*(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;*

*(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and*

*(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under this part;*

*(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and*

*(E) one-half of the remainder of such expenditures; plus*

*(4) an amount equal to the sum of—*

*(A) so much of the amounts expended by such State to carry out a program under section 476, as do not exceed the basic amount for such State determined under subsection (e)(1) of such section; and*

*(B) the lesser of—*

*(i) one-half of any additional amounts expended by such State for such programs; or*

*(ii) the maximum additional amount for such State under subsection (e)(1) of such section.*

*(b) AUTOMATED DATA COLLECTION EXPENDITURES.—The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems, without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.*

*(c) ESTIMATES BY THE SECRETARY.—*

*(1) IN GENERAL.—The Secretary shall, prior to the beginning of each quarter, estimate the amount which a State will*

be entitled to receive 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 subsection (a), 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;

(B) records showing the number of children in the State receiving assistance under this part; and

(C) such other information as the Secretary may find necessary.

(2) **PAYMENTS.**—The Secretary shall pay to the States the amounts so estimated under paragraph (1), reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this subsection to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) **PRO RATA SHARE.**— The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under this part shall be considered an overpayment to be adjusted under this subsection.

(d) **ALLOWANCE OR DISALLOWANCE OF CLAIM.**—

(1) **IN GENERAL.**—Within 60 days after receipt of a State claim for expenditures pursuant to subsection (b)(1), the Secretary shall allow, disallow, or defer such claim.

(2) **NOTICE.**—Within 15 days after a decision to defer a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

(3) **DECISION.**—Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

(A) disallow the claim, if able to complete the review and determine that the claim is not allowable; or

(B) in any other case, allow the claim, subject to disallowance (as necessary)—

(i) upon completion of the review, if it is determined that the claim is not allowable; or

(ii) on the basis of findings of an audit or financial management review.

#### **SEC. 475. DEFINITIONS.**

For definitions of terms used in this part, see section 426.

#### **SEC. 476. REQUIREMENTS FOR INDEPENDENT LIVING PROGRAMS.**

(a) **PAYMENTS FOR INDEPENDENT LIVING PROGRAMS.**—

(1) **IN GENERAL.**—Payments shall be made in accordance with this section for the purpose of assisting States and localities in establishing and carrying out programs designed to as-

*sist children described in paragraph (2) who have attained age 16 in making the transition from foster care to independent living. Any State which provides for the establishment and carrying out of one or more such programs in accordance with this section for a fiscal year shall be entitled to receive payments under this section for such fiscal year, in an amount determined under subsection (e).*

*(2) PROGRAM REQUIREMENTS.—A program established and carried out under paragraph (1)—*

*(A) shall be designed to assist children with respect to whom foster care maintenance payments are being made by the State under this part;*

*(B) may at the option of the State also include any or all other children in foster care under the responsibility of the State; and*

*(C) may at the option of the State also include any child who has not attained age 21 to whom foster care maintenance payments were previously made by a State under this part and whose payments were discontinued on or after the date such child attained age 16, and any child who previously was in foster care described in subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.*

*(b) USE OF FUNDS.—Payment under this section shall be made to the State, and shall be used for the purpose of conducting and providing in accordance with this section (directly or under contracts with local governmental entities or private nonprofit organizations) the activities and services required to carry out the program or programs involved.*

*(c) SUBMISSION OF PROGRAM DESCRIPTION AND ASSURANCES.—In order for a State to receive payments under this section for any fiscal year, the State, prior to February 1 of such fiscal year, must submit to the Secretary, in such manner and form as the Secretary may prescribe, a description of the program together with satisfactory assurances that the program will be operated in an effective and efficient manner and will otherwise meet the requirements of this section.*

*(d) PROGRAM OBJECTIVES.—In carrying out the purpose described in subsection (a), it shall be the objective of each program established under this section to help the individuals participating in such program to prepare to live independently upon leaving foster care. Such programs may include (subject to the availability of funds) programs to—*

*(1) enable participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training;*

*(2) provide training in daily living skills, budgeting, locating and maintaining housing, and career planning;*

*(3) provide for individual and group counseling;*

*(4) integrate and coordinate services otherwise available to participants;*



(5) provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the program;

(6) provide each participant a written transitional independent living plan which shall be based on an assessment of his needs, and which shall be incorporated into his case plan, as defined in section 426(3); and

(7) provide participants with other services and assistance designed to improve their transition to independent living.

(e) DETERMINATION OF PAYMENTS.—

(1) BASIC AMOUNT.—

(A) IN GENERAL.—The basic amount to which a State shall be entitled under section 474(a)(4) for a fiscal year shall be an amount which bears the same ratio to the basic ceiling for such fiscal year as such State's average number of children receiving foster care maintenance payments under part E in fiscal year 1984 bore to the total of the average number of children receiving such payments under such part for all States for fiscal year 1984.

(B) MAXIMUM ADDITIONAL AMOUNT.—The maximum additional amount to which a State shall be entitled under section 474(a)(4) for a fiscal year shall be an amount which bears the same ratio to the additional ceiling for such fiscal year as the basic amount of such State bears to \$45,000,000.

(C) DEFINITIONS.—For purposes of this section:

(i) BASIC CEILING.—The term "basic ceiling" means, for any fiscal year, \$45,000,000.

(ii) ADDITIONAL CEILING.—The term "additional ceiling" means, for any fiscal year, \$25,000,000.

(2) REALLOCATION OF FUNDS.—If any State does not apply for funds under this section for any fiscal year within the time provided in subsection (c), the funds to which such State would have been entitled for such fiscal year shall be reallocated to one or more other States on the basis of their relative need for additional payments under this section (as determined by the Secretary).

(3) SUPPLEMENT TO OTHER FUNDS.—Any amounts payable to States under this section shall be in addition to amounts payable to States under paragraphs (1), (2), and (3) of section 474(a), and shall supplement and not replace any other funds which may be available for the same general purposes in the localities involved.

(f) LIMITATION ON USE OF FUNDS.—Payments made to a State under this section for any fiscal year—

(1) shall be used only for the specific purposes described in this section;

(2) may not be used for the provision of room or board;

(3) may be made on an estimated basis in advance of the determination of the exact amount, with appropriate subsequent adjustments to take account of any error in the estimates; and

(4) shall be expended by such State in such fiscal year or in the succeeding fiscal year.

(g) *REPORTING REQUIREMENTS.*—Not later than the first January 1 following the end of each fiscal year, each State shall submit to the Secretary a report on the programs carried out during such fiscal year with the amounts received under this section. Such report shall be in such form and contain such information as may be necessary to provide an accurate description of such activities, to provide a complete record of the purposes for which the funds were spent, and to indicate the extent to which the expenditure of such funds succeeded in accomplishing the purpose described in subsection (a).

(h) *ASSISTANCE NOT CONSIDERED INCOME OR RESOURCES.*—Notwithstanding any other provision of this title, payments made and services provided to participants in a program under this section, as a direct consequence of their participation in such program, shall not be considered as income or resources for purposes of determining eligibility (or the eligibility of any other persons) for assistance under the State's plan approved under this part or part A, or for purposes of determining the level of such assistance.

**SEC. 477. COLLECTION OF DATA RELATING TO ADOPTION AND FOSTER CARE.**

*For requirements with respect to the collection of data relating to adoption and foster care, see section 424.*

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**TITLE X—GRANT TO STATES FOR AID TO THE BLIND**

\* \* \* \* \*

**STATE PLANS FOR AID TO THE BLIND**

SEC. 1002. (a) A State plan for aid to the blind must (1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the blind is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing; (5) provide (A) such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or

part-time employment of recipients and other persons of low-income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act or [aid to families with dependent children under the State plan approved under section 402 of this Act] *assistance under a State program funded under part A of title IV*; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of the individual claiming aid to the blind, as well as any expenses reasonably attributable to the earning of any such income, except that, in making such determination, the State agency (A) shall disregard the first \$85 per month of earned income, plus one-half of earned income in excess of \$85 per month, (B) shall, for a period not in excess of twelve months, and may, for a period not in excess of thirty-six months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, and (C) may, before disregarding the amounts referred to in clauses (A) and (B), disregard not more than \$7.50 of any income; (9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan; (10) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (11) effective July 1, 1951, provide that all individuals wishing to make application for aid to the blind shall have opportunity to do so, and that aid to the blind shall be furnished with reasonable promptness to all eligible individuals; (12) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; (13) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for and recipients of aid to the blind to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services; and (14) provide that information is requested and exchanged for purposes of income and eligibility verification in

accordance with a State system which meets the requirements of section 1137 of this Act.

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## TITLE XI—GENERAL PROVISIONS AND PEER REVIEW

### PART A—GENERAL PROVISIONS

\* \* \* \* \*

#### 【LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA

【SEC. 1108. (a) The total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under parts A and E of title IV (exclusive of any amounts on account of services and items to which subsection (b) or, in the case of part A of title IV, section 403(k) applies)—

【(1) for payment to Puerto Rico shall not exceed—

【(A) \$12,500,000 with respect to the fiscal year 1968,

【(B) \$15,000,000 with respect to the fiscal year 1969,

【(C) \$18,000,000 with respect to the fiscal year 1970,

【(D) \$21,000,000 with respect to the fiscal year 1971,

【(E) \$24,000,000 with respect to each of the fiscal years 1972 through 1978,

【(F) \$72,000,000 with respect to each of the fiscal years 1979 through 1988, or

【(G) \$82,000,000 with respect to the fiscal year 1989 and each fiscal year thereafter;

【(2) for payment to the Virgin Islands shall not exceed—

【(A) \$425,000 with respect to the fiscal year 1968,

【(B) \$500,000 with respect to the fiscal year 1969,

【(C) \$600,000 with respect to the fiscal year 1970,

【(D) \$700,000 with respect to the fiscal year 1971,

【(E) \$800,000 with respect to each of the fiscal years 1972 through 1978,

【(F) \$2,400,000 with respect to each of the fiscal years 1979 through 1988, or

【(G) \$2,800,000 with respect to the fiscal year 1989 and each fiscal year thereafter;

【(3) for payment to Guam shall not exceed—

【(A) \$575,000 with respect to the fiscal year 1968,

【(B) \$690,000 with respect to the fiscal year 1969,

【(C) \$825,000 with respect to the fiscal year 1970,

【(D) \$960,000 with respect to the fiscal year 1971,

【(E) \$1,100,000 with respect to each of the fiscal years 1972 through 1978,

【(F) \$3,300,000 with respect to each of the fiscal years 1979 through 1988, or

【(G) \$3,800,000 with respect to the fiscal year 1989 and each fiscal year thereafter.

Each jurisdiction specified in this subsection may use in its program under title XX any sums available to it under this subsection which are not needed to carry out the programs specified in this subsection.

[(b) The total amount certified by the Secretary under part A of title IV, on account of family planning services with respect to any fiscal year—

[(1) for payment to Puerto Rico shall not exceed \$2,000,000,

[(2) for payment to the Virgin Islands shall not exceed \$65,000, and

[(3) for payment to Guam shall not exceed \$90,000.]

**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, B, 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, B, 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, B, 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 plus the discretionary ceiling amount with respect to the territory, reduced for the fiscal year in accordance with subsection (f).*

(3) *MANDATORY CEILING AMOUNT.—The term “mandatory ceiling amount” means—*

(A) *\$105,538,000 with respect to for Puerto Rico;*

(B) *\$4,902,000 with respect to Guam;*

(C) \$3,742,000 with respect to the Virgin Islands; and  
 (D) \$1,122,000 with respect to American Samoa.

(4) *DISCRETIONARY CEILING AMOUNT.*—The term “discretionary ceiling amount” means, with respect to a territory and a fiscal year, the total amount appropriated pursuant to subsection (d)(3) for the fiscal year for payment to the territory.

(5) *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) *DISCRETIONARY GRANTS.*—

(1) *IN GENERAL.*—The Secretary shall make a grant to each territory for any fiscal year in the amount appropriated pursuant to paragraph (3) for the fiscal year for payment to the territory.

(2) *USE OF GRANT.*—Any territory to which a grant is made under paragraph (1) may expend the amount under any program operated or funded under any provision of law specified in subsection (a).

(3) *LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.*—For grants under paragraph (1), there are authorized to be appropriated to the Secretary for each fiscal year—

(A) \$7,951,000 for payment to Puerto Rico;

(B) \$345,000 for payment to Guam;

(C) \$275,000 for payment to the Virgin Islands; and

(D) \$190,000 for payment to American Samoa.

(e) *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.

(f) *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).

[(c)] (g) The total amount certified by the Secretary under title XIX with respect to a fiscal year for payment to—

(1) Puerto Rico shall not exceed (A) \$116,500,000 for fiscal year 1994 and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase in the medical care component of the consumer price index for all urban consumers (as published by the Bureau of Labor Statistics) for the twelve-month period ending in March preceding the beginning of the fiscal year, rounded to the nearest \$100,000;

(2) the Virgin Islands shall not exceed (A) \$3,837,500 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest \$10,000;

(3) Guam shall not exceed (A) \$3,685,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest \$10,000;

(4) Northern Mariana Islands shall not exceed (A) \$1,110,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest \$10,000; and

(5) American Samoa shall not exceed (A) \$2,140,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest \$10,000.

[(d)] The total amount certified by the Secretary under parts A and E of title IV with respect to a fiscal year for payment to American Samoa (exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies) shall not exceed \$1,000,000.

[(e)] Notwithstanding the provisions of section 421, and until such time as the Congress may by appropriation or other law otherwise provide, the Secretary shall, in lieu of the initial allotment specified in such sections, allot such smaller amounts to Guam, American Samoa, and the Trust Territory of the Pacific Islands as he may deem appropriate.】

AMOUNTS DISREGARDED NOT TO BE TAKEN INTO ACCOUNT IN  
DETERMINING ELIGIBILITY OF OTHER INDIVIDUALS

SEC. 1109. Any amount which is disregarded (or set aside for future needs) in determining the eligibility of and amount of the aid or assistance for any individual under a State plan approved under title I, X, XIV, XVI, or XIX, [(or part A of title IV,)] shall not be taken into consideration in determining the eligibility of and amount of aid or assistance for any other individual under a State plan approved under any other of such titles.

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## DEMONSTRATION PROJECTS

SEC. 1115. (a) In the case of any experimental, pilot, or demonstration project which, in the judgment of the Secretary, is likely to assist in promoting the objectives of title I, X, XIV, XVI, or XIX, or part A or D of title IV, in a State or States—

(1) the Secretary may waive compliance with any of the requirements of section 2, 402, 454, 1002, 1402, 1602, or 1902, as the case may be, to the extent and for the period he finds necessary to enable such State or States to carry out such project, and

(2)(A) costs of such project which would not otherwise be included as expenditures under section 3, [403,] 455, 1003, 1403, 1603, or 1903, as the case may be, 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 expenditures under the State plan or plans approved under such title, or for administration of such State plan or plans, as may be appropriate[.], and

(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.*

In addition, not to exceed \$4,000,000 of the aggregate amount appropriated for payments to States under such titles for any fiscal year beginning after June 30, 1967, shall be available, under such terms and conditions as the Secretary may establish, for payments to States to cover so much of the cost of such projects as is not covered by payments under such titles and is not included as part of the cost of projects for purposes of section 1110.

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(c) In the case of any experimental, pilot, or demonstration project undertaken under subsection (a) to assist in promoting the objectives of part D of title IV, the project—

(1) must be designed to improve the financial well-being of children or otherwise improve the operation of the child support program;

(2) may not permit modifications in the child support program which would have the effect of disadvantaging children in need of support; and

(3) must not result in increased cost to the Federal Government under [the program of aid to families with dependent children] *part A of such title.*

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## ADMINISTRATIVE AND JUDICIAL REVIEW OF CERTAIN ADMINISTRATIVE DETERMINATIONS

SEC. 1116. (a)(1) Whenever a State plan is submitted to the Secretary by a State for approval under title I, X, XIV, XVI, or XIX, [or part A of title IV,] he shall, not later than 90 days after the date the plan is submitted to him, make a determination as to



whether it conforms to the requirements for approval under such title. The 90- day period provided herein may be extended by written agreement of the Secretary and the affected State.

(2) Any State dissatisfied with a determination of the Secretary under paragraph (1) with respect to any plan may, within 60 days after it has been notified of such determination, file a petition with the Secretary for reconsideration of the issue of whether such plan conforms to the requirements for approval under such title. Within 30 days after receipt of such a petition, the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering such issue. Such hearing shall be held not less than 20 days nor more than 60 days after the date notice of such hearing is furnished to such State, unless the Secretary and such State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse his original determination within 60 days of the conclusion of the hearing.

(3) Any State which is dissatisfied with a final determination made by the Secretary on such a reconsideration or a final determination of the Secretary under section 4, [404,] 1004, 1404, 1604, or 1904 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 such 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. The Secretary thereupon shall file in the court the record of the proceedings on which he based his determination as provided in section 2112 of title 28, United States Code.

(4) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, 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.

(5) The court shall have jurisdiction to affirm the action of the Secretary 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.

(b) For the purposes of subsection (a), any amendment of a State plan approved under title I, X, XIV, XVI, or XIX, [or part A of title IV,] may, at the option of the State, be treated as the submission of a new State plan.

(c) Action pursuant to an initial determination of the Secretary described in subsection (a) shall not be stayed pending reconsideration, but in the event that the Secretary subsequently determines that his initial determination was incorrect he shall certify restitution forthwith in a lump sum of any funds incorrectly withheld or otherwise denied.

(d) Whenever the Secretary determines that any item or class of items on account of which Federal financial participation is claimed under title I, X, XIV, XVI, or XIX, [or part A of title IV,]

shall be disallowed for such participation, the State shall be entitled to and upon request shall receive a reconsideration of the disallowance.

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SEC. 1118. In the case of any State which has in effect a plan approved under title XIX for any calendar quarter, the total of the payments to which such State is entitled for such quarter, and for each succeeding quarter in the same fiscal year (which for purposes of this section means the 4 calendar quarters ending with September 30), under paragraphs (1) and (2) of sections 3(a), [403(a),] 1003(a), 1403(a), and 1603(a) shall, at the option of the State, be determined by application of the Federal medical assistance percentage (as defined in section 1905), instead of the percentages provided under each such section, to the expenditures under its State plans approved under titles I, X, XIV, and XVI, [and part A of title IV,] which would be included in determining the amounts of the Federal payments to which such State is entitled under such sections, but without regard to any maximum on the dollar amounts per recipient which may be counted under such sections. For purposes of the preceding sentence, the term "Federal medical assistance percentage" shall, in the case of Puerto Rico, the Virgin Islands, and Guam, mean 75 per centum[, and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV].

FEDERAL PARTICIPATION IN PAYMENTS FOR REPAIRS TO HOME OWNED  
BY RECIPIENT OF AID OR ASSISTANCE

SEC. 1119. In the case of an expenditure for repairing the home owned by an individual who is receiving aid or assistance, other than medical assistance to the aged, under a State plan approved under title I, X, XIV, or XVI, [or part A of title IV] if—

(1) the State agency or local agency administering the plan approved under such title has made a finding (prior to making such expenditure) that (A) such home is so defective that continued occupancy is unwarranted, (B) unless repairs are made to such home, rental quarters will be necessary for such individual, and (C) the cost of rental quarters to take care of the needs of such individual (including his spouse living with him in such home and any other individual whose needs were taken into account in determining the need of such individual) would exceed (over such time as the Secretary may specify) the cost of repairs needed to make such home habitable together with other costs attributable to continued occupancy of such home, and

(2) no such expenditures were made for repairing such home pursuant to any prior finding under this section, the amount paid to any such State for any quarter under section 3(a), [403(a),] 1003(a), 1403(a), or 1603(a) shall be increased by 50 per centum of such expenditures, except that the excess above \$500 expended with respect to any one home shall not be included in determining such expenditures.

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REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS, AND OF FOSTER  
CARE AND ADOPTION ASSISTANCE PROGRAMS, FOR CONFORMITY  
WITH STATE PLAN REQUIREMENTS

SEC. [1123.] 1123A. (a) IN GENERAL.—[The Secretary] *Notwithstanding section 423(g), the Secretary*, in consultation with the State agencies administering the State programs under parts B and E of title IV, shall promulgate regulations for the review of such programs to determine whether such programs are in substantial conformity with—

- (1) State plan requirements under such parts B and E,
- (2) implementing regulations promulgated *under this section* by the Secretary, and
- (3) the relevant approved State plans.

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APPLICANTS OR RECIPIENTS UNDER PUBLIC ASSISTANCE PROGRAMS  
NOT TO BE REQUIRED TO MAKE ELECTION RESPECTING CERTAIN  
VETERANS' BENEFITS

SEC. 1133. (a) Notwithstanding any other provision of law (but subject to subsection (b)), no individual who is an applicant for or recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI, [or part A of title IV,] or of benefits under the Supplemental Security Income program established by title XVI shall—

- (1) \* \* \*

\* \* \* \* \*

[PILOT PROJECTS TO DEMONSTRATE THE USE OF INTEGRATED SERVICE  
DELIVERY SYSTEMS FOR HUMAN SERVICES PROGRAMS

[SEC. 1136. (a) In order to develop and demonstrate ways of improving the delivery of services to individuals and families who need them under the various human services programs, by eliminating programmatic fragmentation and thereby assuring that an applicant for services under any one such program will be informed of and have access to all of the services which may be available to him or his family under the other human services programs being carried out in the community involved, any State having an approved plan under part A of title IV may, subject to the provisions of this section, establish and conduct one or more pilot projects to demonstrate the use of integrated service delivery systems for human services programs in that State or in one or more political subdivisions thereof.

[(b) The integration of service delivery systems for human services programs in any State or locality under a pilot project established under this section shall involve or include—

- [(1) the development of a common set of terms for use in all of the human services programs involved;
- [(2) the development for each applicant of a single comprehensive family profile which is suitable for use under all of the human services programs involved;
- [(3) the establishment and maintenance of a single resources directory by which the citizens of the community in-

volved may be informed of and gain access to the services which are available under all such programs;

[(4) the development of a unified budget and budgeting process, and a unified accounting system, with standardized audit procedures;

[(5) the implementation of unified planning, needs assessment, and evaluation;

[(6) the consolidation of agency locations and related transportation services;

[(7) the standardization of procedures for purchasing services from nongovernmental sources;

[(8) the creation of communications linkages among agencies to permit the serving of individual and family needs across program and agency lines;

[(9) the development, to the maximum extent possible, of uniform application and eligibility determination procedures; and

[(10) any other methods, arrangements, and procedures which the Secretary determines are necessary or desirable for, and consistent with, the establishment and operation of an integrated service delivery system.

[(c)(1) Any State which desires to establish and conduct a pilot project under this section, after having published a description of the proposed project and invited comments thereon from interested persons in the community or communities which would be affected, shall submit an application to the Secretary (in such form and containing such information as the Secretary may require) within 6 months after the date of the enactment of this section. The proposed project may be statewide in operation or may be limited to one or more political subdivisions of the State; and the application shall in any event include or be accompanied by satisfactory assurances that the project as proposed would be permitted under applicable State and local law.

[(2) The Secretary shall consider all applications and accompanying comments and materials which are submitted under paragraph (1), and, no later than 9 months after the date of the enactment of this section, shall approve no fewer than 3 nor more than 5 of the proposed projects (including one such project to be operated on a statewide basis). In considering and approving such applications the Secretary shall take into account the size and characteristics of the population that would be served by each proposed project, the desirability of wide geographic distribution among the projects, the number and nature of the human services programs which are in active operation in the various communities involved, and such other factors as may tend to indicate whether or not a particular proposed project would provide a useful and effective demonstration of the value of an integrated service delivery system. Each project approved under this paragraph shall be deemed for purposes of this section to begin on the first day of the month following the month in which the application with respect to such project is approved.

[(3) The Secretary shall approve any application for a project under this section only after determining that the conduct of such project will not lower or restrict the levels of aid, assistance, bene-

fits, or services, or the income or resource standards, deductions, or exclusions, under any of the human services programs involved, and will not delay the provision of aid, assistance, benefits, or services under any of such programs.

[(d)(1) Any State whose application is approved under subsection (c) may submit to the Secretary a request for the waiver of any requirement which would otherwise apply with respect to the proposed project under any of the laws governing the human services programs to be included in the project; and—

[(A) if the law involved is within the jurisdiction of the Secretary and authority to grant the waiver involved is otherwise available to the Secretary under this title, title IV, or any other provision of law, the Secretary shall approve such request upon a determination that the waiver is necessary for the project to provide a useful and effective demonstration of the value of an integrated service delivery system; and

[(B) if the law involved is within the jurisdiction of a Federal agency other than the Department of Health and Human Services and authority to grant the waiver involved is available to the head of such other agency under that law or any other provision of law, the Secretary shall transmit such request (on behalf of the requesting State) to the head of such other agency, who shall approve such request upon a determination that the waiver is necessary for the project to provide a useful and effective demonstration of the value of an integrated service delivery system and who shall certify such approval to the Secretary.

[(2) If under the law governing any of the human services programs included within a project there are provisions establishing safeguards which limit or restrict the use or disclosure of information (concerning applicants for or recipients of benefits or services) which has been obtained or developed by the agency involved in the conduct of that program, and a waiver of such provisions is granted under paragraph (1) in order to make such information available for purposes of the project—

[(A) the State shall provide each applicant for and recipient of aid, assistance, benefits, or services under the proposed integrated service delivery system with a clear and readily comprehensible notice that such information may be disclosed to and used by project personnel, or exchanged with the other agencies having responsibility for human services programs included within the project;

[(B) the State shall take such steps as may be necessary to ensure that the information disclosed will be used only for purposes of, and by persons directly connected with, such project; and

[(C) the State's application with respect to the project under subsection (c) shall contain or be accompanied by satisfactory assurances that the preceding requirements of this paragraph will be fully complied with.

[(e) The Secretary shall from time to time pay to each State which has an approved pilot project under this section, in such manner and according to such schedule as may be agreed upon by the Secretary and such State, amounts equal in the aggregate to—

[(1) 90 percent of the costs incurred by such State and its political subdivisions in carrying out such project during the first 18 months after the date on which the project begins,

[(2) 80 percent of any such costs incurred during the 12-month period beginning with the nineteenth month after such date, and

[(3) 70 percent of any such costs incurred during the 12-month period beginning with the thirty-first month after such date.

[(f)(1) For purposes of this section, the term "human services program" includes the program of aid to families with dependent children under part A of title IV, the supplemental security income benefits program under title XVI, the Federal food stamp program, and any other Federal or federally assisted program (other than a program under the Rehabilitation Act of 1973) which provides aid, assistance, or benefits based wholly or partly on need or on income-related qualifications to specified classes or types of individuals or families or which is designed to help in crisis or emergency situations by meeting the basic human needs of individuals or families whose own resources are insufficient for that purpose.

[(2) In carrying out this section the Secretary shall regularly consult with the Secretary of Labor, the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the head of any other Federal agency having jurisdiction over or responsibility for one or more human services programs, in order to ensure that the administrative efforts of the various agencies involved are coordinated with respect to all of the pilot projects being carried out under this section.

[(g) The Secretary shall require each State which is carrying out a pilot project under this section to submit periodic reports on the progress of such project, giving particular attention to the cost-effectiveness of the integrated service delivery system involved and the extent to which such system is improving the delivery of services. No pilot project under this section shall be conducted for a period of longer than 42 months. The first such report shall be submitted no later than 3 months after the date on which the project begins.

[(h) The Secretary shall from time to time submit to the Congress a report on the progress and current status of each of the approved pilot projects under this section. Each such report shall reflect the periodic reports theretofore submitted to the Secretary by the States involved under subsection (g), and shall contain such additional comments, findings, and recommendations with respect to the operation of the program under this section as the Secretary may determine to be appropriate.

[(i) The Comptroller General shall, at such time or times as he determines to be appropriate, review and evaluate any or all of the pilot projects undertaken pursuant to this section, and shall from time to time report to the Congress on the results of such reviews and evaluations together with his findings and recommendations with respect thereto.

[(j) There are authorized to be appropriated, for the four-fiscal-year period beginning with the fiscal year 1985, such sums, not to

exceed \$8,000,000 in the aggregate, as may be necessary to carry out this section.】

#### INCOME AND ELIGIBILITY VERIFICATION SYSTEM

SEC. 1137. (a) In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system which meets the requirements of subsection (d) and under which—

(1) \* \* \*

\* \* \* \* \*

(3) employers (*including State and local governmental entities and labor organizations (as defined in section 453A(a)(2)(B)(iii))*) in such State are required, effective September 30, 1988, to make quarterly wage reports to a State agency (which may be the agency administering the State's unemployment compensation law) except that the Secretary of Labor (in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture) may waive the provisions of this paragraph if he determines that the State has in effect an alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for the purposes described in paragraph (2), *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;*

\* \* \* \* \*

(b) The programs which must participate in the income and eligibility verification system are—

【(1) the aid to families with dependent children program under part A of title IV of this Act;】

(1) *any State program funded under part A of title IV of this Act;*

\* \* \* \* \*

(d) The requirements of this subsection, with respect to an income and eligibility verification system of a State, are as follows:

(1)(A) \* \* \*

(B) 【In this subsection—

【(4)(i) in the case of the program described in subsection (b)(1), any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's being considered a dependent child or to the individual's being treated as a caretaker relative or other person whose needs are to be taken into account in making the determination under section 402(a)(7),

【(ii) in】 *In this subsection, in the case of the program described in subsection (b)(4)—*

【(I)】 *(i) any reference to the State shall be considered a reference to the State agency, and*

【(II)】 (ii) any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's eligibility to participate in the program as a member of a household, and

【(III)】 (iii) the term "satisfactory immigration status" means an immigration status which does not make the individual ineligible for benefits under the applicable program.

\* \* \* \* \*

#### RECOVERY OF SSI OVERPAYMENTS FROM SOCIAL SECURITY BENEFITS

SEC. 1146. (a) *IN GENERAL.*—Whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to any person under the supplemental security income program authorized by title XVI, and the Commissioner is unable to make proper adjustment or recovery of the amount so incorrectly paid as provided in section 1631(b), the Commissioner (notwithstanding section 207) may recover the amount incorrectly paid by decreasing any amount which is payable under the Federal Old-Age and Survivors Insurance program or the Federal Disability Insurance program authorized by title II to that person or that person's estate.

(b) *NO EFFECT ON SSI BENEFIT ELIGIBILITY OR AMOUNT.*—Notwithstanding subsections (a) and (b) of section 1611, in any case in which the Commissioner takes action in accordance with subsection (a) to recover an overpayment from any person, neither that person, nor any individual whose eligibility or benefit amount is determined by considering any part of that person's income, shall, as a result of such action—

(1) become eligible under the program of supplemental security income benefits under title XVI, or

(2) if such person or individual is already so eligible, become eligible for increased benefits thereunder.

(c) *PROGRAM UNDER TITLE XVI.*—For purposes of this section, the term "supplemental security income program authorized by title XVI" 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.

\* \* \* \* \*

#### TITLE XIV—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

\* \* \* \* \*

#### STATE PLANS FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

SEC. 1402. (a) A State plan for aid to the permanently and totally disabled must (1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of



a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to the permanently and totally disabled is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing; (5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency; (6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports; (7) provide that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act, [aid to families with dependent children under the State plan approved under section 402 of this Act] *assistance under a State program funded under part A of title IV*, or aid to the blind under the State plan approved under section 1002 of this Act; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of an individual claiming aid to the permanently and totally disabled, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, (A) the State agency may disregard not more than \$7.50 of any income, (B) of the first \$40 per month of additional income which is earned the State agency may disregard not more than the first \$20 thereof plus one-half of the remainder, and (C) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation; (9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require

such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan; (10) provide that all individuals wishing to make application for aid to the permanently and totally disabled shall have opportunity to do so, and that aid to the permanently and totally disabled shall be furnished with reasonable promptness to all eligible individuals; (11) effective July 1, 1953, provide, if the plan includes payments to individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; (12) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for and recipients of aid to the permanently and totally disabled to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services; and (13) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act.

\* \* \* \* \*

## TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

\* \* \* \* \*

### PART A—DETERMINATION OF BENEFITS

#### ELIGIBILITY FOR AND AMOUNT OF BENEFITS

##### Definition of Eligible Individual

SEC. 1611. (a) \* \* \*

\* \* \* \* \*

##### Period for Determination of Benefits

(c)(1) \* \* \*

\* \* \* \* \*

(5) Notwithstanding paragraphs (1) and (2), any income which is paid to or on behalf of an individual in any month pursuant to **[(A) a State plan approved under part A of title IV of this Act (relating to aid to families with dependent children),]** (A) *a State program funded under part A of title IV*, (B) section 472 of this Act (relating to foster care assistance), (C) section 412(e) of the Immigration and Nationality Act (relating to assistance for refugees), (D) section 501(a) of Public Law 96-422 (relating to assistance for Cuban and Haitian entrants), or (E) the Act of November 2, 1921 (42 Stat. 208), as amended (relating to assistance furnished by the Bureau of Indian Affairs), shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not

be taken into account in determining the amount of the benefit for any other month.

\* \* \* \* \*

(7) For purposes of this subsection, an application of an individual for benefits under this title shall be effective on the later of—

[(A) the date such application is filed, or

(B) the date such individual first becomes eligible for such benefits with respect to such application.]

*(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.*

\* \* \* \* \*

(e)(1)(A) Except as provided in subparagraphs (B), (C), (D), (E), and (G), no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he is an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month (subject to subparagraph (G)), in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under [title XIX, or] *title XV or XIX*, an eligible individual is a child described in section 1614(f)(2)(B), *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 the benefit under this title for such individual for such month shall be payable (subject to subparagraph (E))—*

(i) \* \* \*

\* \* \* \* \*

(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 contract entered into under clause (i) or to information exchanged pursuant to such contract.*

(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.*

[(5)] (3) Notwithstanding anything to the contrary in the criteria being used by the Commissioner of Social Security in determining when a husband and wife are to be considered two eligible individuals for purposes of this title and when they are to be considered an eligible individual with an eligible spouse, the State agency administering or supervising the administration of a State plan under any other program under this Act may (in the administration of such plan) treat a husband and wife living in the same hospital, home, or facility described in paragraph (1)(B) as though they were an eligible individual with his or her eligible spouse for purposes of this title (rather than two eligible individuals), after they have continuously lived in the same such hospital, home, or facility for 6 months, if treating such husband and wife as two eligible individuals would prevent either of them from receiving benefits or assistance under such plan or reduce the amount thereof.

(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.*

(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.*

(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 Commis-*

sioner 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.

#### INCOME

##### Meaning of Income

SEC. 1612. (a) For purposes of this title, income means both earned income and unearned income; and—

- (1) earned income means only—
  - (A) wages as determined under section 203(f)(5)(C);
- (2) unearned income means all other income, including—
  - (A) \* \* \*

\* \* \* \* \*

(E) support and alimony payments, and (subject to the provisions of subparagraph (D) excluding certain amounts expended for purposes of a last illness and burial) gifts (cash or otherwise) and inheritances; [and]

(F) rents, dividends, interest, and royalties not described in paragraph (1)(E)[.]; and

(G) any earnings of, and additions to, the corpus of a trust (as defined in section 1613(f)) established by an individual (within the meaning of section 1613(e)(2)(A)) and of which such individual is a beneficiary (other than a trust to which section 1613(e)(4) applies), except that in the case of an irrevocable trust, there shall exist circumstances under which payment from such earnings or additions could be made to, or for the benefit of, such individual.

\* \* \* \* \*

##### Exclusions From Income

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

- (1) \* \* \*

\* \* \* \* \*

(19) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit); [and]

(20) special pay received pursuant to section 310 of title 37, United States Code[.]; and

*(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(2)(F).*

#### RESOURCES

##### Exclusions From Resources

SEC. 1613. (a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

(1) \* \* \*

\* \* \* \* \*

(9) for the 9-month period beginning after the month in which received, any amount received by such individual (or such spouse) from a fund established by a State to aid victims of crime, to the extent that such individual (or such spouse) demonstrates that such amount was paid as compensation for expenses incurred or losses suffered as a result of a crime;

(10) for the 9-month period beginning after the month in which received, relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act; **[and]**

(11) for the month of receipt and the following month, any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit) **[.]**; and

*(12) any account, including accrued interest or other earnings thereon, established and maintained in accordance with section 1631(a)(2)(F).*

In determining the resources of an individual (or eligible spouse) an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is \$1,500 or less, no part of the value of any such policy shall be taken into account.

\* \* \* \* \*

**[Notification of Medicaid Policy Restricting Eligibility of Institutionalized Individuals for Benefits Based on Disposal of Resources for Less Than Fair Market Value**

**[(c)(1)** At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Commissioner of Social Security shall—

**[(A)** inform such individual of the provisions of section 1917(c) providing for a period of ineligibility for benefits under title XIX for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to subparagraph (B)

will be made available to the State agency administering a State plan under title XIX (as provided in paragraph (2)); and

[(B) obtain from such individual information which may be used by the State agency in determining whether or not a period of ineligibility for such benefits would be required by reason of section 1917(c) if such individual (or such spouse, if any) enters a medical institution or nursing facility.

[(2) The Commissioner of Social Security shall make the information obtained under paragraph (1)(B) available, on request, to any State agency administering a State plan approved under title XIX.]

*Disposal of Resources for Less Than Fair Market Value*

(c)(1)(A)(i) *If an individual who has not attained 18 years of age (or any person acting on such individual's behalf) disposes of resources of the individual for less than fair market value on or after the look-back date specified in clause (ii)(I), the individual is ineligible for benefits under this title for months during the period beginning on the date specified in clause (iii) and equal to the number of months specified in clause (iv).*

*(ii)(I) The look-back date specified in this subclause is a date that is 36 months before the date specified in subclause (II).*

*(II) The date specified in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the disposal of the individual's resources for less than fair market value occurs.*

*(iii) The date specified in this clause is the first day of the first month that follows the month in which the individual's resources were disposed of for less than fair market value and that does not occur in any other period of ineligibility under this paragraph.*

*(iv) The number of months of ineligibility under this clause for an individual shall be equal to—*

*(I) the total, cumulative uncompensated value of all the individual's resources so disposed of on or after the look-back date specified in clause (ii)(I), divided by*

*(II) the amount of the maximum monthly benefit payable under section 1611(b) to an eligible individual for the month in which the date specified in clause (ii)(II) occurs.*

*(B) An individual shall not be ineligible for benefits under this title by reason of subparagraph (A) if the Commissioner determines that—*

*(i) the individual intended to dispose of the resources at fair market value;*

*(ii) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title;*

*(iii) all resources transferred for less than fair market value have been returned to the individual; or*

*(iv) the denial of eligibility would work an undue hardship on the individual (as determined on the basis of criteria established by the Commissioner in regulations).*

*(C) For purposes of this paragraph, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be consid-*

ered to be disposed of by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such resource.

(D)(i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to such resource is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered, but for the application of subsection (e)(4)).

(ii) In the case of a trust established by an individual (within the meaning of subsection (e)(2)(A)), if from such portion of the trust (if any) that is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered but for the application of subsection (e)(2)) or the residue of such portion upon the termination of the trust—

(I) there is made a payment other than to or for the benefit of the individual, or

(II) no payment could under any circumstance be made to the individual,

then the payment described in subclause (I) or the foreclosure of payment described in subclause (II) shall be considered a disposal of resources by the individual subject to this subsection, as of the date of such payment or foreclosure, respectively.

(2)(A) At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Commissioner of Social Security shall—

(i) inform such individual of the provisions of paragraph (1) providing for a period of ineligibility for benefits under this title for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to clause (ii) will be made available to the State agency administering a State plan approved under title XV or XIX (as provided in subparagraph (B)); and

(ii) obtain from such individual information which may be used in determining whether or not a period of ineligibility for such benefits would be required by reason of paragraph (1).

(B) The Commissioner of Social Security shall make the information obtained under subparagraph (A)(ii) available, on request, to any State agency administering a State plan approved under title XV or XIX.

(3) For purposes of this subsection—

(A) the term “trust” includes any legal instrument or device that is similar to a trust; and

(B) the term “benefits under this title” includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

\* \* \* \* \*



*Trusts*

(e)(1) *In determining the resources of an individual who has not attained 18 years of age, the provisions of paragraph (3) shall apply to a trust established by such individual.*

(2)(A) *For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual were transferred to the trust.*

(B) *In the case of an irrevocable trust to which the assets of an individual and the assets of any other person or persons were transferred, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.*

(C) *This subsection shall apply without regard to—*

- (i) the purposes for which the trust is established;*
- (ii) whether the trustees have or exercise any discretion under the trust;*
- (iii) any restrictions on when or whether distributions may be made from the trust; or*
- (iv) any restrictions on the use of distributions from the trust.*

(3)(A) *In the case of a revocable trust, the corpus of the trust shall be considered a resource available to the individual.*

(B) *In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the corpus from which payment to or for the benefit of the individual could be made shall be considered a resource available to the individual.*

(4) *The Commissioner may waive the application of this subsection with respect to any individual if the Commissioner determines, on the basis of criteria prescribed in regulations, that such application would work an undue hardship on such individual.*

(5) *For purposes of this subsection—*

(A) *the term “trust” includes any legal instrument or device that is similar to a trust;*

(B) *the term “corpus” means all property and other interests held by the trust, including accumulated earnings and any other addition to such trust after its establishment (except that such term does not include any such earnings or addition in the month in which such earnings or addition is credited or otherwise transferred to the trust);*

(C) *the term “asset” includes any income or resource of the individual, including—*

- (i) any income otherwise excluded by section 1612(b);*
- (ii) any resource otherwise excluded by this section; and*
- (iii) any other payment or property that the individual is entitled to but does not receive or have access to because of action by—*

*(I) such individual;*

*(II) a person or entity (including a court) with legal authority to act in place of, or on behalf of, such individual; or*

*(III) a person or entity (including a court) acting at the direction of, or upon the request of, such individual; and*

(D) the term “benefits under this title” includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

#### MEANING OF TERMS

##### Aged, Blind, or Disabled Individual

SEC. 1614. (a)(1) \* \* \*

\* \* \* \* \*

(3)(A) **[An individual]** *Except as provided in subparagraph (C), an individual* shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment 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 twelve months **[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]**.

\* \* \* \* \*

(C)(i) *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.*

(ii) *The Commissioner shall ensure that the combined effects of all physical or mental impairments of an individual are taken into account in determining whether an individual is disabled in accordance with clause (i).*

(iii) *The Commissioner shall ensure that the regulations prescribed under this subparagraph provide for the evaluation of children who cannot be tested because of their young age.*

(iv) *Notwithstanding the preceding provisions of this subparagraph, 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.*

**[(C)] (D)** For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

**[(D)] (E)** The Commissioner of Social Security shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses,

and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Commissioner of Social Security in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Commissioner of Social Security may prescribe. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria shall be found not to be disabled. The Commissioner of Social Security shall make determinations under this title with respect to substantial gainful activity, without regard to the legality of the activity.

[(E)] (F) Notwithstanding the provisions of subparagraphs (A) through [(D)] (E), an individual shall also be considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.

[(F)] (G) In determining whether an individual's physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility under this section, the Commissioner of Social Security shall consider the combined effect of all of the individual's impairments without regard to whether any such impairment, if considered separately, would be of such severity. If the Commissioner of Social Security does find a medically severe combination of impairments, the combined impact of the impairments shall be considered throughout the disability determination process.

[(G)] (H)(i) In making determinations with respect to disability under this title, the provisions of sections 221(h), 221(k), and 223(d)(5) shall apply in the same manner as they apply to determinations of disability under title II.

(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 inter-*

est 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.

(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.

(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.

[(H)] (I) In making any determination under this title with respect to the disability of an individual who has not attained the age

of 18 years and to whom section 221(h) does not apply, the Commissioner of Social Security shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of the individual (as determined by the Commissioner of Social Security) evaluates the case of such individual.

[(I)] (J) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.

(4) A recipient of benefits based on disability under this title may be determined not to be entitled to such benefits on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling only if such finding is supported by—

(A) *in the case of an individual who is age 18 or older—*

[(A)] (i) substantial evidence which demonstrates that—

[(i)] (I) there has been any medical improvement in the individual's impairment or combination of impairments (other than medical improvement which is not related to the individual's ability to work), and

[(ii)] (II) the individual is now able to engage in substantial gainful activity; or

[(B)] (ii) substantial evidence (except in the case of an individual eligible to receive benefits under section 1619) which—

[(i)] (I) consists of new medical evidence and a new assessment of the individual's residual functional capacity, and demonstrates that—

[(I)] (aa) although the individual has not improved medically, he or she is nonetheless a beneficiary of advances in medical or vocational therapy or technology (related to the individual's ability to work), and

[(II)] (bb) the individual is now able to engage in substantial gainful activity, or

[(ii)] (II) demonstrates that—

[(I)] (aa) although the individual has not improved medically, he or she has undergone vocational therapy (related to the individual's ability to work), and

[(II)] (bb) the individual is now able to engage in substantial gainful activity; or

[(C)] (iii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments is not as disabling as it was considered to be at the time of the most recent prior decision that he or she was under a disability or continued to be under a disability, and that therefore the individual is able to engage in substantial gainful activity; or

18— (B) *in the case of an individual who is under the age of*

(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 combination of impairments does not result in marked and severe functional limitations; or*

[(D)] (C) *in the case of any individual, substantial evidence (which may be evidence on the record at the time any prior determination of the entitlement to benefits based on disability was made, or newly obtained evidence which relates to that determination) which demonstrates that a prior determination was in error.*

Nothing in this paragraph shall be construed to require a determination that an individual receiving benefits based on disability under this title is entitled to such benefits if the prior determination was fraudulently obtained or if the individual is engaged in substantial gainful activity, cannot be located, or fails, without good cause, to cooperate in a review of his or her entitlement or to follow prescribed treatment which would be expected (i) to restore his or her ability to engage in substantial gainful activity. Any determination under this paragraph shall be made on the basis of all the evidence available in the individual's case file, including new evidence concerning the individual's prior or current condition which is presented by the individual or secured by the Commissioner of Social Security. Any determination made under this paragraph shall be made on the basis of the weight of the evidence and on a neutral basis with regard to the individual's condition, without any initial inference as to the presence or absence of disability being drawn from the fact that the individual has previously been determined to be disabled, 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.*

#### Eligible Spouse

(b) For purposes of this title, the term "eligible spouse" means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual, and who, in a month, is living with such aged, blind, or disabled individual on the first day of the month or, in any case in which either spouse files an application for benefits or requests restoration of eligibility under this title during the month, **[at the time the application or request is filed]** *on the first day of the month following the date the application or request is filed.* If two aged, blind, or disabled individuals

are husband and wife as described in the preceding sentence, only one of them may be an “eligible individual” within the meaning of section 1611(a).

\* \* \* \* \*

#### 【OPERATION OF STATE SUPPLEMENTATION PROGRAMS

【SEC. 1618. (a) In order for any State which makes supplementary payments of the type described in section 1616(a) (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66), on or after June 30, 1977, to be eligible for payments pursuant to title XIX with respect to expenditures for any calendar quarter which begins—

【(1) after June 30, 1977, or, if later,

【(2) after the calendar quarter in which it first makes such supplementary payments,  
such State must have in effect an agreement with the Commissioner of Social Security whereby the State will—

【(3) continue to make such supplementary payments, and

【(4) maintain such supplementary payments at levels which are not lower than the levels of such payments in effect in December 1976, or, if no such payments were made in that month, the levels for the first subsequent month in which such payments were made.

【(b)(1) The Commissioner of Social Security shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its supplementary payments for a particular month or months if the State’s expenditures for such payments in the twelve-month period (within which such month or months fall) beginning on the effective date of any increase in the level of supplemental security income benefits pursuant to section 1617 are not less than its expenditures for such payments in the preceding twelve-month period.

【(2) For purposes of determining under paragraph (1) whether a State’s expenditures for supplementary payments in the 12-month period beginning on the effective date of any increase in the level of supplemental security income benefits are not less than the State’s expenditures for such payments in the preceding 12-month period, the Commissioner of Social Security, in computing the State’s expenditures, shall disregard, pursuant to a 1-time election of the State, all expenditures by the State for retroactive supplementary payments that are required to be made in connection with the retroactive supplemental security income benefits referred to in section 5041 of the Omnibus Budget Reconciliation Act of 1990.

【(c) Any State which satisfies the requirements of this section solely by reason of subsection (b) for a particular month or months in any 12-month period (described in such subsection) ending on or after June 30, 1982, may elect, with respect to any month in any subsequent 12-month period (so described), to apply subsection (a)(4) as though the reference to December 1976 in such subsection were a reference to the month of December which occurred in the 12-month period immediately preceding such subsequent period.

【(d) The Commissioner of Social Security shall not find that a State has failed to meet the requirements imposed by paragraph

(4) of subsection (a) with respect to the levels of its supplementary payments for any portion of the period July 1, 1980, through June 30, 1981, if the State's expenditures for such payments in that twelve-month period were not less than its expenditures for such payments for the period July 1, 1976, through June 30, 1977 (or, if the State made no supplementary payments in the period July 1, 1976, through June 30, 1977, the expenditures for the first twelve-month period extending from July 1 through June 30 in which the State made such payments).

[(e)(1) For any particular month after March 1983, a State which is not treated as meeting the requirements imposed by paragraph (4) of subsection (a) by reason of subsection (b) shall be treated as meeting such requirements if and only if—

[(A) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93–66, for that particular month,

is not less than—

[(B) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93–66, for March 1983, increased by the amount of all cost-of-living adjustments under section 1617 (and any other benefit increases under this title) which have occurred after March 1983 and before that particular month.

[(2) In determining the amount of any increase in the combined level involved under paragraph (1)(B) of this subsection, any portion of such amount which would otherwise be attributable to the increase under section 1617(c) shall be deemed instead to be equal to the amount of the cost-of-living adjustment which would have occurred in July 1983 (without regard to the 3-percent limitation contained in section 215(i)(1)(B)) if section 111 of the Social Security Amendments of 1983 had not been enacted.

[(f) The Commissioner of Social Security shall not find that a State has failed to meet the requirements imposed by subsection (a) with respect to the levels of its supplementary payments for the period January 1, 1984, through December 31, 1985, if in the period January 1, 1986, through December 31, 1986, its supplementary payment levels (other than to recipients of benefits determined under section 1611(e)(1)(B)) are not less than those in effect in December 1976, increased by a percentage equal to the percentage by which payments under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93–66 have been increased as a result of all adjustments under section 1617(a) and (c) which have occurred after December 1976 and before February 1986.

[(g) In order for any State which makes supplementary payments of the type described in section 1616(a) (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93–66) to recipients of benefits determined under section 1611(e)(1)(B), on or after October 1, 1987, to be eligible for payments pursuant to title XIX with respect to any calendar quarter which begins—



- [(1) after October 1, 1987, or, if later  
 [(2) after the calendar quarter in which it first makes such supplementary payments to recipients of benefits so determined,  
 such State must have in effect an agreement with the Commissioner of Social Security whereby the State will—  
 [(3) continue to make such supplementary payments to recipients of benefits so determined, and  
 [(4) maintain such supplementary payments to recipients of benefits so determined at levels which assure (with respect to any particular month beginning with the month in which this subsection is first effective) that—  
 [(A) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for that particular month,  
 [is not less than—  
 [(B) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for October 1987 (or, if no such supplementary payments were made for that month, the combined level for the first subsequent month for which such payments were made), increased—  
 [(i) in a case to which clause (i) of such section 1611(e)(1)(B) applies or (with respect to the individual or spouse who is in the hospital, home, or facility involved) to which clause (ii) of such section applies, by \$5, and  
 [(ii) in a case to which clause (iii) of such section 1611(e)(1)(B) applies, by \$10.]

\* \* \* \* \*

## PART B—PROCEDURAL AND GENERAL PROVISIONS

### PAYMENTS AND PROCEDURES

#### Payment of Benefits

SEC. 1631. (a)(1) Benefits under this title shall be paid at such time or times and (*subject to paragraph (10)*) in such installments as will best effectuate the purposes of this title, as determined under regulations (and may in any case be paid less frequently than monthly where the amount of the monthly benefit would not exceed \$10).

(2)(A) \* \* \*

\* \* \* \* \*

(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, in-*

clude 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 shall 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 (bb), (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).*

[(F)] (G) The Commissioner of Social Security shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

- (i) the number of cases in which the representative payee was changed;
- (ii) the number of cases discovered where there has been a misuse of funds;
- (iii) how any such cases were dealt with by the Commissioner of Social Security;
- (iv) the final disposition of such cases (including any criminal penalties imposed); and
- (v) such other information as the Commissioner of Social Security determines to be appropriate.

[(G)] (H) The Commissioner of Social Security shall make an initial report to each House of the Congress on the implementation of subparagraphs (B) and (C) within 270 days after the date of the enactment of this subparagraph. The Commissioner of Social Security shall include in the annual report required under section 704, information with respect to the implementation of subparagraphs (B) and (C), including the same factors as are required to be included in the Commissioner's report under section 205(j)(4)(B).

(3) The Commissioner of Social Security may by regulations establish ranges of incomes within which a single amount of benefits under this title shall apply.

(4) The Commissioner of Social Security—

(A) may make to any individual initially applying for benefits under this title who is presumptively eligible for such benefits *for the month following the date the application is filed* and who is faced with financial emergency a cash advance against such benefits, including any federally-administered State supplementary payments, in an amount not exceeding the monthly amount that would be payable to an eligible individual with no other income for the first month of such presumptive eligibility, *which shall be repaid through proportionate reductions in such benefits over a period of not more than 6 months*; and

\* \* \* \* \*

(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.*

#### Overpayments and Underpayments

(b)(1) \* \* \*

\* \* \* \* \*

(5) *For the recovery of overpayments of benefits under this title from benefits payable under title II, see section 1146.*

\* \* \* \* \*

#### Applications and Furnishing of Information

(e)(1) \* \* \*

\* \* \* \* \*

[(6)] (7)(A)(i) The Commissioner of Social Security shall immediately redetermine the eligibility of an individual for benefits under this title if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases,

certifies, in writing, that there is a substantial risk that such action by the Commissioner of Social Security with regard to recipients in a particular investigation would jeopardize the criminal prosecution of a person involved in a suspected fraud.

\* \* \* \* \*

[(7)] (8)(A) The Commissioner of Social Security shall request the Immigration and Naturalization Service or the Centers for Disease Control to provide the Commissioner of Social Security with whatever medical information, identification information, and employment history either such entity has with respect to any alien who has applied for benefits under title XVI to the extent that the information is relevant to any determination relating to eligibility for such benefits under title XVI.

(B) Subparagraph (A) shall not be construed to prevent the Commissioner of Social Security from adjudicating the case before receiving such information.

(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.*

\* \* \* \* \*

#### Reimbursement to States for Interim Assistance Payments

(g)(1) \* \* \*

\* \* \* \* \*

(3) For purposes of this subsection, the term "interim assistance" with respect to any individual means assistance financed from State or local funds and furnished for meeting basic needs (A) during the period, beginning with the month *following the month* in which the individual filed an application for benefits (as defined in paragraph (2)), for which he was eligible for such benefits, or (B) during the period beginning with the first month for which the individual's benefits (as defined in paragraph (2)) have been terminated or suspended if the individual was subsequently found to have been eligible for such benefits.

\* \* \* \* \*

#### 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 ini-*

*tial 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) projections of future number of recipients and program costs, through at least 25 years;*

*(5) number of redeterminations and continuing disability reviews, and the outcomes of such redeterminations and reviews;*

*(6) data on the utilization of work incentives;*

*(7) detailed information on administrative and other program operation costs;*

*(8) summaries of relevant research undertaken by the Social Security Administration, or by other researchers;*

*(9) State supplementation program operations;*

*(10) a historical summary of statutory changes to this title; and*

*(11) 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.*

\* \* \* \* \*

## TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

### STATE PLANS FOR MEDICAL ASSISTANCE

SEC. 1902. (a) \* \* \*

\* \* \* \* \*

[(c) Notwithstanding subsection (b), the Secretary shall not approve any State plan for medical assistance if—

[(1) the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on May 1, 1988; or

[(2) the State requires individuals described in subsection (1)(1) to apply for benefits under such part as a condition of applying for, or receiving, medical assistance under this title.]

\* \* \* \* \*

(j) 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 in American Samoa and the Northern Mariana Islands, other than a waiver of the Federal medical assistance percentage, the limitation in section [1108(c)] 1108(g), or the requirement that payment may be made for medical assistance only with respect to amounts expended by American Samoa or the Northern Mariana Islands for care and services described in paragraphs (1) through (25) of section 1905(a).

\* \* \* \* \*

## PAYMENT TO STATES

SEC. 1903. (a) \* \* \*

\* \* \* \* \*

(i) Payment under the preceding provisions of this section shall not be made—

(1) \* \* \*

\* \* \* \* \*

[(9) with respect to any amount of medical assistance for pregnant women and children described in section 1902(a)(10)(A)(ii)(IX), if the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on July 1, 1987;]

\* \* \* \* \*

## TITLE XX—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES

\* \* \* \* \*

## ALLOTMENTS

SEC. 2003. (a) \* \* \*

\* \* \* \* \*

(c) The amount specified for purposes of subsections (a) and (b) shall be—

(1) \$2,400,000,000 for the fiscal year 1982;

\* \* \* \* \*

(4) \$2,750,000,000 for the fiscal year 1988; [and]

[(5) \$2,800,000,000 for each fiscal year after fiscal year 1989.]

(5) \$2,800,000,000 for each of the fiscal years 1990 through 1995;

(6) \$2,520,000,000 for each of the fiscal years 1997 through 2002; and

(7) \$2,380,000,000 for the fiscal year 2003 and each succeeding fiscal year.

\* \* \* \* \*

## FOOD STAMP ACT OF 1977

\* \* \* \* \*

## ELIGIBLE HOUSEHOLDS

SEC. 5. (a) Participation in the food stamp program shall be limited to those households whose incomes and other financial resources, held singly or in joint ownership, are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Notwithstanding any other provisions of this Act except sections 6(b), 6(d)(2), and 6(g) and the third sentence of section

3(i), households in which each member receives benefits under a State **[plan approved under part A of title IV of the Social Security Act]** *program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)*, supplemental security income benefits under title XVI of the Social Security Act, or aid to the aged, blind, or disabled under title I, X, XIV, or XVI of the Social Security Act, shall be eligible to participate in the food stamp program. Except for sections 6, 16(e)(1), and the third sentence of section 3(i), households in which each member receives benefits under a State or local general assistance program that complies with standards established by the Secretary for ensuring that the program is based on income criteria comparable to or more restrictive than those under subsection (c)(2), and not limited to one-time emergency payments that cannot be provided for more than one consecutive month, shall be eligible to participate in the food stamp program. Assistance under this program shall be furnished to all eligible households who make application for such participation.

\* \* \* \* \*

(d) Household income for purposes of the food stamp program shall include all income from whatever source excluding only (1) any gain or benefit which is not in the form of money payable directly to a household (notwithstanding its conversion in whole or in part to direct payments to households pursuant to any demonstration project carried out or authorized under Federal law including demonstration projects created by the waiver of provisions of Federal law), except as provided in subsection (k), (2) any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of \$30 in a quarter, subject to modification by the Secretary in light of subsection (f), (3) all educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like (A) awarded to a household member enrolled at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent thereof, (B) to the extent that they do not exceed the amount used for or made available as an allowance determined by such school, institution, program, or other grantor, for tuition and mandatory fees (including the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved), books, supplies, transportation, and other miscellaneous personal expenses (other than living expenses), of the student incidental to attending such school, institution, or program, and (C) to the extent loans include any origination fees and insurance premiums, (4) all loans other than educational loans on which repayment is deferred, (5) reimbursements which do not exceed expenses actually incurred and which do not represent a gain or benefit to the household and any allowance a State agency provides no more frequently than annually to families with children on the occasion of those children's entering or returning to school or child care for the purpose of obtaining school clothes (except that no such allowance shall be excluded if the State agency reduces monthly **[assistance to families with dependent children]** *assistance under a State program funded under part A of title IV of the*



Social Security Act (42 U.S.C. 601 et seq.) in the month for which the allowance is provided): *Provided*, That no portion of benefits provided under title IV–A of the Social Security Act, to the extent it is attributable to an adjustment for work-related or child care expenses (except for payments or reimbursements for such expenses made under an employment, education, or training program initiated under such title after the date of enactment of the Hunger Prevention Act of 1988), and no portion of any educational loan on which payment is deferred, grant, scholarship, fellowship, veterans' benefits, and the like that are provided for living expenses, shall be considered such reimbursement, (6) moneys received and used for the care and maintenance of a third-party beneficiary who is not a household member, (7) income earned by a child who is a member of the household, who is an elementary or secondary school student, and who is 21 years of age or younger, (8) moneys received in the form of nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits, cash donations based on need that are received from one or more private nonprofit charitable organizations, but not in excess of \$300 in the aggregate in a quarter, retroactive lump-sum social security or railroad retirement pension payments and retroactive lump-sum insurance settlements: *Provided*, That such payments shall be counted as resources, unless specifically excluded by other laws, (9) the cost of producing self-employed income, but household income that otherwise is included under this subsection shall be reduced by the extent that the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, (10) any income that any other Federal law specifically excludes from consideration as income for purposes of determining eligibility for the food stamp program except as otherwise provided in subsection (k) of this section, (11) any payments or allowances made for the purpose of providing energy assistance (A) under any Federal law, or (B) under any State or local laws, designated by the State or local legislative body authorizing such payments or allowances as energy assistance, and determined by the Secretary to be calculated as if provided by the State or local government involved on a seasonal basis for an aggregate period not to exceed six months in any year even if such payments or allowances (including tax credits) are not provided on a seasonal basis because it would be administratively infeasible or impracticable to do so, (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the first month in which the adjustment was effective, [(13) at the option of a State agency and subject to subsection (m), child support payments that are excluded under section 402(a)(8)(A)(vi) of the Social Security Act (42 U.S.C. 602(a)(8)(A)(vi)), (14)] (13) any payment made to the household under section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income credit), [(15)] (14) any payment made to the household under

section 6(d)(4)(I) for work related expenses or for dependent care, and **[(16)]** (15) any amounts necessary for the fulfillment of a plan for achieving self-support of a household member as provided under subparagraph (A)(iii) or (B)(iv) of section 1612(b)(4) of the Social Security Act (42 U.S.C. 1382a(b)(4)).

\* \* \* \* \*

(j) Notwithstanding subsections (a) through (i), a State agency shall consider a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, II, X, XIV, or XVI of such Act (42 U.S.C. 301 et seq.), or who receives benefits under a State **[plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)]** *program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.)* to have satisfied the resource limitations prescribed under subsection (g).

**[(m)]** If a State agency excludes payments from income for purposes of the food stamp program under subsection (d)(13), such State agency shall pay to the Federal Government, in a manner prescribed by the Secretary, the cost of any additional benefits provided to households in such State that arise under such program as the result of such exclusion.

#### ELIGIBILITY DISQUALIFICATIONS

SEC. 6. (a) \* \* \*

\* \* \* \* \*

(c) No household shall be eligible to participate in the food stamp program if it refuses to cooperate in providing information to the State agency that is necessary for making a determination of its eligibility or for completing any subsequent review of its eligibility.

(1) \* \* \*

\* \* \* \* \*

(5) The Secretary is authorized, upon the request of a State agency, to waive any provisions of this subsection (except the provisions of the first sentence of paragraph (1) which relate to households which are not required to file periodic reports) to the extent necessary to permit the State agency to establish periodic reporting requirements for purposes of this Act which are similar to the periodic reporting requirements established under **[the State plan approved]** *the State program funded* under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in that State.

\* \* \* \* \*

(e) No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if the individual is enrolled at least half-time in an institution of higher education, unless the individual—

(1) \* \* \*

\* \* \* \* \*

(6) is receiving [aid to families with dependent children] *benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)*;

\* \* \* \* \*

#### ADMINISTRATIVE COST-SHARING AND QUALITY CONTROL

##### SEC. 16. (a) \* \* \*

\* \* \* \* \*

(g) The Secretary is authorized to pay to each State agency an amount equal to—

63 percent effective on October 1, 1991, of the costs incurred by the State agency in the planning, design, development, or installation of automatic data processing and information retrieval systems that the Secretary determines (1) will assist in meeting the requirements of this Act, (2) meet such conditions as the Secretary prescribes, (3) are likely to provide more efficient and effective administration of the food stamp program, and (4) will be compatible with other such systems used in the administration of [State plans under the Aid to Families with Dependent Children Program under] *State programs funded under part A of title IV of the Social Security Act: Provided, That there shall be no such payments to the extent that a State agency is reimbursed for such costs under any other Federal program or uses such systems for purposes not connected with the food stamp program: Provided further, That any costs matched under this subsection shall be excluded in determining the State agency's administrative costs under any other subsection of this section.*

\* \* \* \* \*

#### RESEARCH, DEMONSTRATION, AND EVALUATIONS

##### SEC. 17. (a) \* \* \*

(b)(1)(A) The Secretary may conduct on a trial basis, in one or more areas of the United States, pilot or experimental projects designed to test program changes that might increase the efficiency of the food stamp program and improve the delivery of food stamp benefits to eligible households, including projects involving the payment of the value of allotments or the average value of allotments by household size in the form of cash to eligible households all of whose members are age sixty-five or over or any of whose members are entitled to supplemental security income benefits under title XVI of the Social Security Act or [to aid to families with dependent children under part A of title IV of the Social Security Act] *or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)*, the use of countersigned food coupons or similar identification mechanisms that do not invade a household's privacy, and the use of food checks or other voucher-type forms in place of food coupons. The Secretary may waive the requirements of this Act to the degree necessary for such projects to be conducted, except that no project, other than a project involving the payment of the average value of allotments by household size in the form of cash to eligible households or a project conducted under paragraph (3), shall be implemented which

would lower or further restrict the income or resource standards or benefit levels provided pursuant to sections 5 and 8 of this Act. Any pilot or experimental project implemented under this paragraph and operating as of October 1, 1981, involving the payment of the value of allotments in the form of cash to eligible households all of whose members are either age sixty-five or over or entitled to supplemental security income benefits under title XVI of the Social Security Act shall be continued through October 1, 2002, if the State so requests.

\* \* \* \* \*

(3)(A) The Secretary may conduct demonstration projects to test improved consistency or coordination between the food stamp employment and training program and the Job Opportunities and Basic Skills program under title IV of the Social Security Act (42 U.S.C. 601 et seq.).

\* \* \* \* \*

*(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.*

#### WORKFARE

SEC. 20. (a)(1) The Secretary shall permit any political subdivision, in any State, that applies and submits a plan to the Secretary in compliance with guidelines promulgated by the Secretary to operate a workfare program pursuant to which every member of a household participating in the food stamp program who is not exempt by virtue of the provisions of subsection (b) of this section shall accept an offer from such subdivision to perform work on its behalf, or may seek an offer to perform work, in return for compensation consisting of the allotment to which the household is entitled under section 8(a) of this Act, with each hour of such work entitling that household to a portion of its allotment equal in value to 100 per centum of the higher of the applicable State minimum wage or the Federal minimum hourly rate under the Fair Labor Standards Act of 1938.

(2)(A) The Secretary shall promulgate guidelines pursuant to paragraph (1) which, to the maximum extent practicable, enable a political subdivision to design and operate a workfare program under this section which is compatible and consistent with similar workfare programs operated by the subdivision.

(B) A political subdivision may comply with the requirements of this section by [operating—

[(i) a workfare program pursuant to title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

[(ii) any other] *operating any workfare program which the Secretary determines meets the provisions and protections provided under this section.*

(b)[(1)] A household member shall be exempt from workfare requirements imposed under this section if such member is—

[(A)] *(I) exempt from section 6(d)(1) as the result of clause (B), (C), (D), (E), or (F) of section 6(d)(2);*

[(B)] (2) at the option of the operating agency, subject to and currently actively and satisfactorily participating at least 20 hours a week in a work [training program] *activity* required under title IV of the Social Security Act (42 U.S.C. 601 et seq.);

[(C)] (3) mentally or physically unfit;

[(D)] (4) under sixteen years of age;

[(E)] (5) sixty years of age or older; or

[(F)] (6) a parent or other caretaker of a child in a household in which another member is subject to the requirements of this section or is employed fulltime.

[(2)(A)] Subject to subparagraphs (B) and (C), in the case of a household that is exempt from work requirements imposed under this Act as the result of participation in a community work experience program established under section 409 of the Social Security Act (42 U.S.C. 609), the maximum number of hours in a month for which all members of such household may be required to participate in such program shall equal the result obtained by dividing—

[(i)] the amount of assistance paid to such household for such month under title IV of such Act, together with the value of the food stamp allotment of such household for such month; by

[(ii)] the higher of the Federal or State minimum wage in effect for such month.

[(B)] In no event may any such member be required to participate in such program more than 120 hours per month.

[(C)] For the purpose of subparagraph (A)(i), the value of the food stamp allotment of a household for a month shall be determined in accordance with regulations governing the issuance of an allotment to a household that contains more members than the number of members in an assistance unit established under title IV of such Act.]

\* \* \* \* \*

## SECTION 5 OF THE AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

SEC. 5. (a) \* \* \*

\* \* \* \* \*

(h) Each State agency administering a commodity supplemental food program serving women, infants, and children shall—

(1) ensure that written information concerning food stamps, [the program for aid to families with dependent children] *the State program funded* under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and the child support enforcement program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is provided on at least one occasion to each adult who applies for or participates in the commodity supplemental food program;

\* \* \* \* \*

## SECTION 9 OF THE NATIONAL SCHOOL LUNCH ACT

### NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 9. (a) \* \* \*

(b)(1)(A) \* \* \*

(2)(A) \* \* \*

\* \* \* \* \*

(C)(i) Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulations, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.

(ii) Subject to clause (iii), any school food authority may certify any child as eligible for free or reduced price lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child's status as a member of—

(I) a household that is receiving food stamps under the Food Stamp Act of 1977; or

(II) a family that is receiving assistance under the [program for aid to families with dependent children] *State program funded under part A of title IV of the Social Security Act 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.*

\* \* \* \* \*

(6)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is—

(i) \* \* \*

(ii) a member of [an AFDC assistance unit (under the aid to families with dependent children program authorized] *a family (under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.))*, in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) *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; or*

\* \* \* \* \*

(B) Proof of receipt of food stamps or [aid to families with dependent children] *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, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii), shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).*

\* \* \* \* \*

(d)(1) The Secretary shall require as a condition of eligibility for receipt of free or reduced price lunches that the member of the household who executes the application furnish the social security account number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary. The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(2)(C).

(2) No member of a household may be provided a free or reduced price lunch under this Act unless—

(A) \* \* \*

\* \* \* \* \*

(C) documentation has been provided to the appropriate local school food authority showing that the family is receiving assistance under the [program for aid to families with dependent children] *State program funded under part A of title IV of the Social Security Act 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.*

\* \* \* \* \*

## SECTION 17 OF THE CHILD NUTRITION ACT OF 1966

### SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

#### SEC. 17. (a) \* \* \*

\* \* \* \* \*

(d)(1) Participation in the program under this section shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

(2)(A) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of individuals for participation in the program. Any individual at nutritional risk shall be eligible for the program under this section only if such individual—

(i) is a member of a family with an income that is less than the maximum income limit prescribed under section 9(b)

of the National School Lunch Act for free and reduced price meals;

(ii)(I) receives food stamps under the Food Stamp Act of 1977; or

(II) is a member of a family that receives assistance under the [program for aid to families with dependent children established] *State program funded* under part A of title IV of the Social Security Act *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;* or

\* \* \* \* \*

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## SECTION 508 OF THE UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1976

### SEC. 508. STATE EMPLOYMENT OFFICES TO SUPPLY DATA IN AID OF ADMINISTRATION OF AFDC AND CHILD SUPPORT PRO- GRAMS.

(a) \* \* \*

[(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 403 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices 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), by a State or local agency administering a State plan approved under part A of title IV of the Social Security Act shall be considered to constitute expenses incurred in the administration of such State plan; and for purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information so requested by a State or local agency charged with the duty of carrying out 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) *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.*

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**OMNIBUS BUDGET RECONCILIATION ACT OF 1987**

\* \* \* \* \*

**TITLE IX—INCOME SECURITY AND  
RELATED PROGRAMS**

\* \* \* \* \*

**Subtitle B—Provisions Relating to Public  
Assistance and Unemployment Com-  
pensation**

**PART 1—AFDC AND SSI AMENDMENTS**

\* \* \* \* \*

**[SEC. 9121. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.**

**[(a) IN GENERAL.]**—Upon application of the State of Washington and approval by the Secretary of Health and Human Services, the State of Washington (in this section referred to as the “State”) may conduct a demonstration project in accordance with this section for the purpose of testing whether the operation of its Family Independence Program enacted in May 1987 (in this section referred to as the “Program”), as an alternative to the AFDC program under title IV of the Social Security Act, would more effectively break the cycle of poverty and provide families with opportunities for economic independence and strengthened family functioning.

**[(b) NATURE OF PROJECT.]**—Under the demonstration project conducted under this section—

**[(1)]** every individual eligible for aid under the State plan approved under section 402(a) of the Social Security Act shall be eligible to enroll in the Program, which shall operate simultaneously with the AFDC program so long as there are individuals who qualify for the latter;

**[(2)]** cash assistance shall be furnished in a timely manner to all eligible individuals under the Program (and the State may not make expenditures for services under the Program until it has paid all necessary cash assistance), with no family receiving less in cash benefits than it would have received under the AFDC program;

**[(3)]** individuals may be required to register, undergo assessment, and participate in work, education, or training under the Program, except that—

**[(A)]** work or training may not be required in the case of—

**[(i)]** a single parent of a child under six months of age, or more than one parent of such a child in a two-parent family,

**[(ii)]** a single parent with a child of any age who has received assistance for less than six months,

[(iii) a single parent with a child under three years of age who has received assistance for less than three years,

[(iv) an individual under 16 years of age or over 64 years of age,

[(v) an individual who is incapacitated, temporarily ill, or needed at home to care for an impaired person, or

[(vi) an individual who has not yet been individually notified in writing of such requirement or of the expiration of his or her exempt status under this subparagraph;

[(B) participation in work or training shall in any case be voluntary during the first two years of the Program, and may thereafter be made mandatory only in counties where more than 50 percent of the enrollees can be placed in employment within three months after they are job ready;

[(C) in no case shall the work and training aspect of the Program be mandated in any county where the unemployment level is at least twice the State average; and

[(D) mandated work shall not include work in any position created by a reduction in the work force, a bona fide labor dispute, the decertification of a bargaining unit, or a new job classification which subverts the intention of the Program;

[(4) there shall be no change in existing State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees; and

[(5) the Program shall include due process guarantees and procedures no less than those which are available to participants in the AFDC program under Federal law and regulation and under State law.

[(c) WAIVERS.—The Secretary shall (with respect to the project under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the project or effectively achieving its purpose, or with the requirements of sections 1902(a)(1), 1902(e)(1), and 1916 of that Act (but only to the extent necessary to enable the State to carry out the Program as enacted by the State in April 1987).

[(d) FUNDING.—

[(1) The Secretary, under section 403(b) or 1903(d) of the Social Security Act, shall reimburse the State for its expenditures under the Program—

[(A) at a rate equal to the Federal matching rate applicable to the State under section 403(a)(1) (or 1118) of the Social Security Act, for cash assistance, medical assistance, and child care provided to enrollees;

[(B) at a rate equal to the applicable Federal matching rate under section 403(a)(3) of such Act, for administrative expenses; and

[(C) at the rate of 75 percent for an evaluation plan approved by the Secretary.

[(2) As a condition of approval of the project under this section, the State must provide assurances satisfactory to the Secretary that the total amount of Federal reimbursement over the period of the project will not exceed the anticipated Federal reimbursements (over that period) under the AFDC and Medicaid programs; but this paragraph shall not prevent the State from claiming reimbursement for additional persons who would qualify for assistance under the AFDC program, for costs attributable to increases in the State's payment standard, or for any other federally-matched benefits or services.

[(e) EVALUATION.—The State must satisfy the Secretary that the Program will be evaluated using a reasonable methodology.

[(f) DURATION OF PROJECT.—

[(1) The project under this section shall begin on the date on which the first individual is enrolled in the Program and (subject to paragraph (2)) shall end five years after that date.

[(2) The project may be terminated at any time, on six months written notice, by the State or (upon a finding that the State has materially failed to comply with this section) by the Secretary.

**[SEC. 9122. CHILD SUPPORT DEMONSTRATION PROGRAM IN NEW YORK STATE.**

[(a) IN GENERAL.—Upon application by the State of New York and approval by the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the State of New York (in this section referred to as the "State") may conduct a demonstration program in accordance with this section for the purpose of testing a State program as an alternative to the program of Aid to Families with Dependent Children under title IV of the Social Security Act.

[(b) NATURE OF PROGRAM.—Under the demonstration program conducted under this section—

[(1) all custodial parents of dependent children who are eligible for supplements under the State plan approved under section 402(a) of the Social Security Act (and such other types or classes of such parents as the State may specify) may elect to receive benefits under the State's Child Support Supplement Program in lieu of supplements under such plan; and

[(2) the Federal Government will pay to the State with respect to families receiving benefits under the State's Child Support Supplement Program the same amounts as would have been payable with respect to such families under sections 403 and 1903 of the Social Security Act as if the families were receiving aid and medical assistance under the State plans in effect with respect to such sections.

[(c) WAIVERS.—The Secretary shall (with respect to the program under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the program or effectively achieving its purpose.

[(d) CONDITIONS OF APPROVAL.—As a condition of approval of the program under this section, the State shall—

[(1) provide assurances satisfactory to the Secretary that the State—

[(A) will continue to make assistance available to all eligible children in the State who are in need of financial support, and

[(B) will continue to operate an effective child support enforcement program;

[(2) agree—

[(A) to have the program evaluated, and

[(B) to report interim findings to the Secretary at such times as the Secretary shall provide; and

[(3) satisfy the Secretary that the program will be evaluated using a reasonable methodology that can determine whether changes in work behavior and changes in earnings are attributable to participation in the program.

[(e) APPLICATION PROCESS.—In order to participate in the program under this section, the State must submit an application under this section not later than two years after the date of enactment of this Act. The Secretary shall approve or disapprove the application of the State not later than 90 days after the date of its submission. If the application is disapproved, the Secretary shall provide to the State a statement of the reasons for such disapproval, of the changes needed to obtain approval, and of the date by which the State may resubmit the application.

[(f) EFFECTIVE DATE.—The program under this section shall commence not later than the first day of the third calendar quarter beginning on or after the date on which the application of the State is approved in accordance with subsection (e).

[(g) DURATION OF PROGRAM.—

[(1) Except as provided in paragraph (2), if the Secretary approves the application of the State, the demonstration program under this section shall be conducted for a period not to exceed five years.

[(2)(A) The Governor of the State may before the end of the period described in paragraph (1) terminate the demonstration program under this section if the Governor finds that the program is not successful in testing the State's Child Support Supplement Program as an alternative to the program under title IV of the Social Security Act. The Governor shall notify the Secretary of the decision to terminate the program not less than three months prior to the date of such termination.

[(B) The Secretary may terminate the program before the end of such period if the Secretary finds that the program is not in compliance with the terms of the application. The Secretary shall notify the Governor of the decision to terminate the program not less than three months prior to the date of such termination.]

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## SECITON 221 OF THE HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

### 【CONSIDERATION OF UTILITY PAYMENTS MADE BY TENANTS IN ASSISTED HOUSING

【SEC. 221. Notwithstanding any other provision of law, for purposes of determining eligibility, or the amount of benefits payable, under part A of title IV of the Social Security Act, any utility payment made in lieu of any rental payment by a person living in a dwelling unit in a lower income housing project assisted under the United States Housing Act of 1937 or section 236 of the National Housing Act shall be considered to be a shelter payment.】

## SECTION 159 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

### 【EXCLUSION FROM INCOME

【SEC. 159. Notwithstanding any other provision of law, payments which are made, under a statutorily established State program, to meet certain needs of children receiving aid under the State's plan approved under part A of title IV of the Social Security Act, if—

【(1) the payments are made to such children by the State agency administering such plan, but are made without Federal financial participation (under section 403(a) of such Act or otherwise), and

【(2) the State program has been continuously in effect since before January 1, 1979,

shall be excluded from the income of such children and their families for purposes of section 402(a)(17) of such Act, and for all the other purposes of such part A and of such plan, effective on the date of the enactment of this Act.】

## SECTION 202 OF THE SOCIAL SECURITY AMENDMENTS OF 1967

### EARNINGS EXEMPTION FOR RECIPIENTS OF AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 202. (a) \* \* \*

\* \* \* \* \*

【(d) Effective with respect to quarters beginning after June 30, 1968, in determining the need of individuals claiming aid under a State plan approved under part A of title IV of the Social Security Act, the State shall apply the provisions of such part notwithstanding any provisions of law (other than such Act) requiring the State to disregard earned income of such individuals in determining need under such State plan.】

**SECTION 903 OF THE STEWART B. MCKINNEY  
HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988**

**SEC. 903. DEMONSTRATION PROJECTS TO REDUCE NUMBER OF  
HOMELESS AFDC FAMILIES IN WELFARE HOTELS.**

(a) IN GENERAL.—In order to enable States to provide housing for homeless families who are recipients of [aid to families with dependent children under a State plan approved] *assistance under a State program funded* under part A of title IV of the Social Security Act in transitional facilities instead of in commercial or similar transient facilities, at least 2 but not more than 3 States may undertake and carry out demonstration projects in accordance with this section. States may use public or private nonprofit agencies in carrying out demonstration projects in accordance with this section. Demonstration projects under this section shall meet such conditions and requirements as the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall prescribe.

\* \* \* \* \*

(c) PROJECT REQUIREMENTS.—The Secretary shall not approve an application received from a State for a demonstration project under this section unless the State agency that administers the program of [aid to families with dependent children in the State under a State plan approved] *assistance in the State under a State program funded* under part A of title IV of the Social Security Act demonstrates that the project will—

(1) \* \* \*

\* \* \* \* \*

---

**HIGHER EDUCATION ACT OF 1965**

\* \* \* \* \*

**TITLE IV—STUDENT ASSISTANCE**

**PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF  
HIGHER EDUCATION**

\* \* \* \* \*

**CHAPTER 2—NATIONAL EARLY INTERVENTION  
SCHOLARSHIP AND PARTNERSHIP PROGRAM**

\* \* \* \* \*

**SEC. 404C. EARLY INTERVENTION.**

(a) \* \* \*

\* \* \* \* \*

(c) PRIORITY STUDENTS.—In administering the early intervention component, the State shall treat as priority students any student in preschool through grade 12 who is eligible—

(1) to be counted under section 1005(c) of the Elementary and Secondary Education Act of 1965;

(2) for free or reduced price meals pursuant to the National School Lunch Act; or

(3) for assistance pursuant to part A of title IV of the Social Security Act [(Aid to Families with Dependent Children)].

\* \* \* \* \*

#### PART E—FEDERAL PERKINS LOANS

\* \* \* \* \*

#### SEC. 480. DEFINITIONS.

As used in this part:

(a) \* \* \*

(b) UNTAXED INCOME AND BENEFITS.—The term “untaxed income and benefits” means—

(1) child support received;

(2) welfare benefits, including [aid to families with dependent children under a State plan approved] *assistance under a State program funded* under part A of title IV of the Social Security Act and aid to dependent children;

\* \* \* \* \*

#### PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

\* \* \* \* \*

#### SEC. 484. STUDENT ELIGIBILITY.

(a) \* \* \*

(b) ELIGIBILITY FOR STUDENT LOANS.—(1) \* \* \*

\* \* \* \* \*

(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 co-signed 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.*

\* \* \* \* \*

---

### CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT

\* \* \* \* \*

## TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

### PART A—STATE PROGRAMS

\* \* \* \* \*

### PART C—SECONDARY, POSTSECONDARY, AND ADULT VOCATIONAL EDUCATION PROGRAMS

#### Subpart 1—Within-State Allocation

#### SEC. 231. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL PRO- GRAMS.

(a) \* \* \*

\* \* \* \* \*

(d) ALLOCATIONS TO AREA VOCATIONAL EDUCATION SCHOOLS  
AND INTERMEDIATE EDUCATIONAL AGENCIES.—(1) \* \* \*

\* \* \* \* \*

(3)(A) For the purposes of this subsection, the State may deter-  
mine the number of economically disadvantaged students attending  
vocational education programs on the basis of eligibility for any of  
the following:

(i) Free or reduced-price meals under the National School  
Lunch Act.

(ii) **【The program for aid to dependent children】** *The State  
program funded* under part A of title IV of the Social Security  
Act.

\* \* \* \* \*

#### SEC. 232. DISTRIBUTION OF FUNDS TO POSTSECONDARY AND ADULT PROGRAMS.

(a) \* \* \*

(b) **WAIVER FOR MORE EQUITABLE DISTRIBUTION.**—The Sec-  
retary may waive the application of subsection (a) in the case of  
any State that submits to the Secretary an application for such a  
waiver that—

(1) \* \* \*

(2) includes a proposal for an alternative formula that may  
include criteria relating to the number of individuals attending  
institutions or consortia within the State who—

(A) receive need-based postsecondary financial aid pro-  
vided from public funds;

(B) are members of families participating in **【the pro-  
gram for aid to families with dependent children】** *the State  
program funded* under part A of title IV of the Social Secu-  
rity Act;

\* \* \* \* \*

#### TITLE V—GENERAL PROVISIONS

\* \* \* \* \*



## PART C—DEFINITIONS

**SEC. 521. DEFINITIONS.**

As used in this Act:

(1) \* \* \*

\* \* \* \* \*

(14) The term “displaced homemaker” means an individual who—

(A) is an adult; and

(B)(i) has worked as an adult primarily without remuneration to care for the home and family, and for that reason has diminished marketable skills;

(ii) has been dependent on public assistance or on the income of a relative but is no longer supported by such income;

(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under [the program for aid to families with dependent children] *the State program funded* under part A of title IV of the Social Security Act within 2 years of the parent’s application for assistance under this Act; or

\* \* \* \* \*

---

**ELEMENTARY AND SECONDARY EDUCATION ACT OF  
1965**

\* \* \* \* \*

**TITLE I—HELPING DISADVANTAGED  
CHILDREN MEET HIGH STANDARDS**

\* \* \* \* \*

**PART A—IMPROVING BASIC PROGRAMS OPER-  
ATED BY LOCAL EDUCATIONAL AGENCIES**

**Subpart 1—Basic Program Requirements**

\* \* \* \* \*

**SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.**

(a) DETERMINATION.—

(1) \* \* \*

\* \* \* \* \*

(5) MEASURES.—The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the National School Lunch Act, the number of children in families

receiving assistance under the [Aid to Families with Dependent Children program] *State program funded under part A of title IV of the Social Security Act*, or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

- (A) to identify eligible school attendance areas;
- (B) to determine the ranking of each area; and
- (C) to determine allocations under subsection (c).

\* \* \* \* \*

## Subpart 2—Allocations

\* \* \* \* \*

### SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) \* \* \*

\* \* \* \* \*

(c) CHILDREN TO BE COUNTED.—

(1) \* \* \*

\* \* \* \* \*

(5) OTHER CHILDREN TO BE COUNTED.—For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under [the program of aid to families with dependent children under a State plan approved under] *a State program funded under part A of title IV of the Social Security Act*; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

\* \* \* \* \*

## TITLE V—PROMOTING EQUITY

### PART A—MAGNET SCHOOLS ASSISTANCE

\* \* \* \* \*

### PART B—WOMEN'S EDUCATIONAL EQUITY

\* \* \* \* \*

#### SEC. 5203. PROGRAMS AUTHORIZED.

(a) \* \* \*

(b) GRANTS AUTHORIZED.—

(1) \* \* \*

(2) SUPPORT AND TECHNICAL ASSISTANCE.—To achieve the purposes of this part, the Secretary is authorized to provide support and technical assistance—

(A) to implement effective gender-equity policies and programs at all educational levels, including—

(i) \* \* \*

\* \* \* \* \*

(xi) programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving [Aid to Families with Dependent Children benefits] *assistance under a State program funded under part A of title IV of the Social Security Act*;

\* \* \* \* \*

(B) for research and development, which shall be coordinated with each of the research institutes of the Office of Educational Research and Improvement to avoid duplication of research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions, and local communities, gender equitable, including—

(i) \* \* \*

\* \* \* \* \*

(viii) the development and improvement of programs and activities to increase opportunity for women, including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving [Aid to Families with Dependent Children] *assistance under the State program funded under part A of title IV of the Social Security Act*; and

\* \* \* \* \*

## TITLE X—PROGRAMS OF NATIONAL SIGNIFICANCE

### PART A—FUND FOR THE IMPROVEMENT OF EDUCATION

\* \* \* \* \*

#### PART D—ARTS IN EDUCATION

##### Subpart 1—Arts Education

\* \* \* \* \*

##### Subpart 2—Cultural Partnerships for At-Risk Children and Youth

\* \* \* \* \*

#### SEC. 10413. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Grants awarded under this subpart may be used—

(1) \* \* \*

\* \* \* \* \*

[(4) to provide child care for children of at-risk students who would not otherwise be able to participate in the program;]

\* \* \* \* \*

### PART J—URBAN AND RURAL EDUCATION ASSISTANCE

#### Subpart 1—Urban Education Demonstration Grants

\* \* \* \* \*

#### SEC. 10963. URBAN SCHOOL GRANTS.

(a) \* \* \*

(b) AUTHORIZED ACTIVITIES.—Funds under this section may be used to—

(1) \* \* \*

(2) ensure the readiness of all urban public school children for school, such as—

(A) \* \* \*

\* \* \* \* \*

[(G) establishment of comprehensive child care centers in public secondary schools for students who are parents and their children; and]

\* \* \* \* \*

## Subpart 2—Rural Education Demonstration Grants

\* \* \* \* \*

### SEC. 10974. USES OF FUNDS.

(a) IN GENERAL.—Grant funds made available under section 10973 may be used by rural eligible local educational agencies to meet the National Education Goals through programs designed to—

(1) \* \* \*

\* \* \* \* \*

(6) ensure the readiness of all rural children for school, such as—

(A) \* \* \*

\* \* \* \* \*

[(G) establishment of comprehensive child care centers in public secondary schools for student parents and their children; and]

\* \* \* \* \*

## SUPPLEMENTAL APPROPRIATIONS ACT, 1985

### TITLE I

\* \* \* \* \*

### CHAPTER VII

### DEPARTMENT OF THE INTERIOR

\* \* \* \* \*

### BUREAU OF INDIAN AFFAIRS

### OPERATION OF INDIAN PROGRAMS

(INCLUDING TRANSFER OF FUNDS AND RESCISSION)

For an additional amount for “Operation of Indian programs”, \$23,423,000, and \$4,900,000 which shall be derived by transfer from National Park Service, “National capital region arts and cultural affairs”, such transferred funds to remain available for expenditure until September 30, 1986: *Provided*, That \$8,700,000 shall be used by the Secretary to reduce the amount of unpaid principal on loans to the Navajo Agricultural Products Industry (NAPI) guaranteed under the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1401 et seq.): *Provided further*, That NAPI is discharged from the obligation to pay any unpaid interest accruing before January 1, 1991, on loans by the Secretary to NAPI under that Act: *Provided further*, That no funds shall be paid to creditors of the Sangre de Cristo Development Company, Inc., whose claims are set aside by the United States Bankruptcy Court for the District of New Mexico: [ *Provided further*, That gen-

eral assistance payments made by the Bureau of Indian Affairs after April 29, 1985, shall be made on the basis of Aid to Families with Dependent Children (AFDC) standards of need except where a State ratably reduces AFDC payments in which event the Bureau shall reduce general assistance payments in such State by the same percentage as the State has reduced the AFDC payment.】  
*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.*

\* \* \* \* \*

## INTERNAL REVENUE CODE OF 1986

\* \* \* \* \*

### Subtitle A—Income Taxes

\* \* \* \* \*

## CHAPTER 1—NORMAL TAXES AND SURTAXES

\* \* \* \* \*

### Subchapter A—Determination of Tax Liability

\* \* \* \* \*

## PART IV—CREDITS AGAINST TAX

\* \* \* \* \*

### Subpart C—Refundable Credits

\* \* \* \* \*

#### SEC. 32. EARNED INCOME.

(a) ALLOWANCE OF CREDIT.—

(1) \* \* \*

(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

(A) the credit percentage of the earned income amount, over

[(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.]

(B) the sum of—

(i) the initial phaseout percentage of so much of the modified adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the initial phaseout amount but does not exceed the final phaseout amount, plus

(ii) the final phaseout percentage of so much of the modified adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the final phaseout amount.

[(b) PERCENTAGES AND AMOUNTS.—For purposes of subsection (a)—

[(1) PERCENTAGES.—The credit percentage and the phaseout percentage shall be determined as follows:

[(A) IN GENERAL.—In the case of taxable years beginning after 1995:

[(In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child .....	34	15.98
2 or more qualifying children .....	40	21.06
No qualifying children .....	7.65	7.65

[(B) TRANSITIONAL PERCENTAGES FOR 1995.—In the case of taxable years beginning in 1995:

[(In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child 34 15.98.		
2 or more qualifying children .....	36	20.22
No qualifying children .....	7.65	7.65

[(C) TRANSITIONAL PERCENTAGES FOR 1994.—In the case of a taxable year beginning in 1994:

[(In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child .....	26.3	15.98
2 or more qualifying children .....	30	17.68
No qualifying children .....	7.65	7.65

[(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

[(A) IN GENERAL.—In the case of taxable years beginning after 1994:

[(In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child .....	\$6,000	\$11,000
2 or more qualifying children .....	\$8,425	\$11,000
No qualifying children .....	\$4,000	\$5,000

**[(B) TRANSITIONAL AMOUNTS.—In the case of a taxable year beginning in 1994:**

<b>[In the case of an eligible individual with:</b>	<b>The credit percentage is:</b>	<b>The phaseout percentage is:</b>
1 qualifying child .....	\$7,750	\$11,000
2 or more qualifying children .....	\$8,425	\$11,000
No qualifying children .....	\$4,000	\$5,000.]

**(b) PERCENTAGES AND AMOUNTS.—For purposes of subsection (a)—**

**(1) PERCENTAGES.—***The credit percentage, the initial phaseout percentage, and the final phaseout percentage shall be determined as follows:*

<i>In the case of an eligible individual with:</i>	<i>The credit percentage is:</i>	<i>The initial phaseout percentage is:</i>	<i>The final phaseout percentage is:</i>
1 qualifying child .....	34	15.98	18
2 or more qualifying children .....	40	21.06	23
No qualifying children .....	7.65	7.65	0

**(2) AMOUNTS.—***The earned income amount, the initial phaseout amount, and the final phaseout amount shall be determined as follows:*

<i>In the case of an eligible individual with:</i>	<i>The earned income amount is:</i>	<i>The initial phaseout amount is:</i>	<i>The final phaseout amount is:</i>
1 qualifying child .....	\$6,500	\$11,910	\$17,340
2 or more qualifying children .....	\$9,120	\$11,910	\$21,360
No qualifying children .....	\$4,330	\$5,420	\$0

**(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—**

**(1) ELIGIBLE INDIVIDUAL.—**

**(A) \* \* \***

\* \* \* \* \*

**(C) 2 OR MORE ELIGIBLE INDIVIDUALS.—**If 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest *modified* adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

\* \* \* \* \*

**(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.

\* \* \* \* \*

(5) *MODIFIED ADJUSTED GROSS INCOME.*—

(A) *IN GENERAL.*—The term “modified adjusted gross income” means adjusted gross income determined without regard to the amounts described in subparagraph (B).

(B) *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) 50 percent of 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.

\* \* \* \* \*

(f) *AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.*—

(1) \* \* \*

(2) *REQUIREMENTS FOR TABLES.*—The tables prescribed under paragraph (1) shall reflect the provisions of subsections (a) and (b) and shall have income brackets of not greater than \$50 each—

(A) for earned income between \$0 and the amount of earned income at which the credit is phased out under subsection (b), and

(B) for *modified* adjusted gross income between the dollar amount at which the phaseout begins under subsection (b) and the amount of *modified* adjusted gross income at which the credit is phased out under subsection (b).

\* \* \* \* \*

(i) *DENIAL OF CREDIT FOR INDIVIDUALS HAVING EXCESSIVE INVESTMENT INCOME.*—

(1) *IN GENERAL.*—No credit shall be allowed under subsection (a) for the taxable year if the aggregate amount of dis-

qualified income of the taxpayer for the taxable year exceeds ~~[\$2,350]~~ \$2,250.

(2) DISQUALIFIED INCOME.—For purposes of paragraph (1), the term “disqualified income” means—

(A) interest or dividends to the extent includible in gross —income for the taxable year,

(B) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, ~~[and]~~

(C) the excess (if any) of—

(i) gross income from rents or royalties not derived in the ordinary course of a trade or business, over

(ii) the sum of—

(I) the deductions (other than interest) which are clearly and directly allocable to such gross income, plus

(II) interest deductions properly allocable to such gross income~~[-]~~,

(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.*

~~[(j) INFLATION ADJUSTMENTS.—~~

~~[(1) IN GENERAL.—In the case of any taxable year beginning after 1994, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—~~

~~[(A) such dollar amount, multiplied by~~

~~[(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting “calendar year 1993” for “calendar year 1992”.~~

~~[(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of \$10, such dollar amount shall be rounded to the nearest multiple of \$10 (or, if such dollar amount is a multiple of \$5, such dollar amount shall be increased to the next higher multiple of \$10).]~~

~~(j) INFLATION ADJUSTMENTS.—~~

~~(1) IN GENERAL.—In the case of any taxable year beginning after 1997, each of the dollar amounts in subsections (b)(2) 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 1996” 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.

\* \* \* \* \*

(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).

## Subpart F—Rules for Computing Targeted Jobs Credit

\* \* \* \* \*

### SEC. 51. AMOUNT OF CREDIT.

(a) \* \* \*

\* \* \* \* \*

(d) *MEMBERS OF TARGETED GROUPS.*—For purposes of this subpart—

(1) \* \* \*

\* \* \* \* \*

(9) *ELIGIBLE WORK INCENTIVE EMPLOYEES.*—The term “eligible work incentive employee” means an individual who has been certified by the designated local agency as—

【(A) 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, or

【(B) having been placed in employment under a work incentive program established under section 432(b)(1) or 445 of the Social Security Act.】 *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.*

\* \* \* \* \*

## Subtitle B—Estate and Gift Taxes

\* \* \* \* \*

## CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT

\* \* \* \* \*

### SEC. 3304. APPROVAL OF STATE LAWS.

(a) REQUIREMENTS.—The Secretary of Labor shall approve any State law submitted to him, within 30 days of such submission, which he finds provides that—

(1) \* \* \*

\* \* \* \* \*

(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);

(16)(A) wage information contained in the records of the agency administering the State law which is necessary (as determined by the **Secretary of Health, Education, and Welfare** *Secretary of Health and Human Services* in regulations) for purposes of determining an individual’s **eligibility for aid or services, or the amount of such aid or services, under a State plan for aid and services to needy families with children approved** *eligibility for assistance, or the amount of such assistance, under a State program funded under part A of title IV of the Social Security Act*, shall be made available to a State or political subdivision thereof when such information is specifically requested by such State or political subdivision for such purposes, **and**

*(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*

**[(B)]** (C) such safeguards are established as are necessary (as determined by the **Secretary of Health, Education, and Welfare** *Secretary of Health and Human Services* in regulations) to insure that **[such information is used only for the purposes authorized under subparagraph (A);]** *information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;*

\* \* \* \* \*

## Subtitle F—Procedure and Administration

\* \* \* \* \*

## CHAPTER 61—INFORMATION AND RETURNS

\* \* \* \* \*

## Subchapter B—Miscellaneous Provisions

\* \* \* \* \*

### SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) GENERAL RULE.—Returns and return information shall be confidential, and except as authorized by this title—

(1) \* \* \*

\* \* \* \* \*

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), **[(1)(12)]** *paragraph (6) or (12) of subsection (l)*, paragraph (2) or (4)(B) of subsection (m), or subsection (n),

shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term “officer or employee” includes a former officer or employee.

\* \* \* \* \*

### (l) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR PURPOSES OTHER THAN TAX ADMINISTRATION.—

(1) \* \* \*

\* \* \* \* \*

### (6) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) \* \* \*

**[(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.]**

*(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.*

*(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.*

(7) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL AGENCIES ADMINISTERING CERTAIN PROGRAMS UNDER THE SOCIAL SECURITY ACT, THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE OR CERTAIN HOUSING ASSISTANCE PROGRAMS.—

(A) \* \* \*

\* \* \* \* \*

(D) PROGRAMS TO WHICH RULE APPLIES.—The programs to which this paragraph applies are:

(i) [aid to families with dependent children provided under a State plan approved] *a State program funded* under part A of title IV of the Social Security Act;

\* \* \* \* \*

(10) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(c) OR 6402(d).—

(A) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(c) OR 6402 THE DATE OF THE ENACTMENT OF THIS ACT.—The Secretary may, upon receiving a written request, disclose to officers and employees of any agency seeking a reduction under subsection [(c) or (d)] *(c), (d), or (e)* of section 6402—

(i) \* \* \*

\* \* \* \* \*

(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records, locating any person with respect to whom a reduction under subsection [(c) or (d)] *(c), (d), or (e)* of section 6402 is sought for purposes of collecting the debt with respect to which the reduction is sought, or in the defense of any litigation or administrative procedure ensuing from a reduction made under subsection [(c) or (d)] *(c), (d), or (e)* of section 6402. *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.*

\* \* \* \* \*

(p) PROCEDURE AND RECORDKEEPING.—

(1) \* \* \*

\* \* \* \* \*

(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), (h)(6), (i)(1), (2), (3), (5), or (8), (j)(1) or (2), (l)(1), (2), (3), [(5), (10)] *(5), (11), (13), or (14)* or (o)(1), the General Accounting Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i) or (8) or (l)(6), (7), (8), [(9), or (12)] *(9), (10), or (12)* shall, as a condition for receiving returns or return information—

(A) establish and maintain, to the satisfaction of the Secretary, a permanent system of standardized records

with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of return or return information made by or to it;

\* \* \* \* \*

except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission or the General Accounting Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency body, or commission or the General Accounting Office until he determines that such requirements have been or will be met. In the case of any agency which receives any mailing address under paragraph (2), (4), (6), or (7) of subsection (m) and which discloses any such mailing address to any agent or which receives any information under [subsection (l)(12)(B)] *paragraph (6)(A) or (12)(B) of subsection (l)* and which discloses any such information to any agent, this paragraph shall apply to such agency and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency). For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term “return information” includes related blood donor records (as defined in section 1141(h)(2) of the Social Security Act).

\* \* \* \* \*

## CHAPTER 63—ASSESSMENT

\* \* \* \* \*

### Subchapter B—Deficiency Procedures in the Case of Income, Estate, Gift, and Certain Excise Taxes

\* \* \* \* \*

#### SEC. 6213. RESTRICTIONS APPLICABLE TO DEFICIENCIES; PETITION TO TAX COURT.

(a) \* \* \*

\* \* \* \* \*

(g) DEFINITIONS.—For purposes of this section—

(1) \* \* \*

(2) MATHEMATICAL OR CLERICAL ERROR.—The term “mathematical or clerical error” means—

(A) \* \* \*

\* \* \* \* \*

(D) an omission of information which is required to be supplied on the return to substantiate an entry on the return, **[and]**

(E) an entry on a return of a deduction or credit in an amount which exceeds a statutory limit imposed by subtitle A or B, or chapter 41, 42, 43, or 44, if such limit is expressed—

(i) as a specified monetary amount, or

(ii) as a percentage, ratio, or fraction,

and if the items entering into the application of such limit appear on such return**[.]**,

(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.*

\* \* \* \* \*

## CHAPTER 64—COLLECTION

\* \* \* \* \*

### Subchapter A—General Provisions

\* \* \* \* \*

#### SEC. 6305. COLLECTION OF CERTAIN LIABILITY.

(a) **IN GENERAL.**—Upon receiving a certification from the **[Secretary of Health, Education, and Welfare]** *Secretary of Health and Human Services*, under section 452(b) of the Social Security Act with respect to any individual, the Secretary shall assess and collect the amount certified by the **[Secretary of Health, Education, and Welfare]** *Secretary of Health and Human Services*, in the same manner, with the same powers, and (except as provided in this section) subject to the same limitations as if such amount were a tax imposed by subtitle C the collection of which would be jeopardized by delay, except that—

(1) no interest or penalties shall be assessed or collected,

(2) for such purposes, paragraphs (4), (6), and (8) of section 6334(a) (relating to property exempt from levy) shall not apply,

(3) there shall be exempt from levy so much of the salary, wages, or other income of an individual as is being withheld therefrom in garnishment pursuant to a judgment entered by a court of competent jurisdiction for the support of his minor children, **[and]**

(4) in the case of the first assessment against an individual for delinquency under a court or administrative order against such individual for a particular person or persons, the collection shall be stayed for a period of 60 days immediately following notice and demand as described in section 6303**[.]**, *and*



*(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.*

\* \* \* \* \*

## **Subchapter D—Seizure of Property for Collection of Taxes**

\* \* \* \* \*

### **SEC. 6334. PROPERTY EXEMPT FROM LEVY.**

(a) ENUMERATION.—There shall be exempt from levy—

(1) \* \* \*

\* \* \* \* \*

(11) CERTAIN PUBLIC ASSISTANCE PAYMENTS.—Any amount payable to an individual as a recipient of public assistance under—

(A) title IV [(relating to aid to families with dependent children)] or title XVI (relating to supplemental security income for the aged, blind, and disabled) of the Social Security Act, or

(B) State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test.

\* \* \* \* \*

## **CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS**

\* \* \* \* \*

### **Subchapter A—Procedure in General**

\* \* \* \* \*

### **SEC. 6402. AUTHORITY TO MAKE CREDITS OR REFUNDS.**

(a) GENERAL RULE.—In the case of any overpayment, the Secretary, within the applicable period of limitations, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the person who made the overpayment and shall, subject to subsections [(c) and (d)] (c), (d), and (e), refund any balance to such person.

\* \* \* \* \*

(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 recov-

*ery of overpayments to individuals under State plans approved under part A of title IV of such Act).*

\* \* \* \* \*

[(e)] (f) REVIEW OF REDUCTIONS.—No court of the United States shall have jurisdiction to hear any action, whether legal or equitable, brought to restrain or review a reduction authorized by subsection (c) or (d). No such reduction shall be subject to review by the Secretary in an administrative proceeding. No action brought against the United States to recover the amount of any such reduction shall be considered to be a suit for refund of tax. This subsection does not preclude any legal, equitable, or administrative action against the Federal agency to which the amount of such reduction was paid or any such action against the Commissioner of Social Security which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act.

[(f)] (g) FEDERAL AGENCY.—For purposes of this section, the term “Federal agency” means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).

[(g)] (h) TREATMENT OF PAYMENTS TO STATES.—The Secretary may provide that, for purposes of determining interest, the payment of any amount withheld under subsection (c) to a State shall be treated as a payment to the person or persons making the overpayment.

[(h)] (i) CROSS REFERENCE.—

For procedures relating to agency notification of the Secretary,  
see section 3721 of title 31, United States Code.

[(i)] (j) REFUNDS TO CERTAIN FIDUCIARIES OF INSOLVENT MEMBERS OF AFFILIATED GROUPS.—Notwithstanding any other provision of law, in the case of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return for any taxable year and which is subject to a statutory or court-appointed fiduciary, the Secretary may by regulation provide that any refund for such taxable year may be paid on behalf of such insolvent corporation to such fiduciary to the extent that the Secretary determines that the refund is attributable to losses or credits of such insolvent corporation.

\* \* \* \* \*

## CHAPTER 77—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

### SEC. 7523. GRAPHIC PRESENTATION OF MAJOR CATEGORIES OF FEDERAL OUTLAYS AND INCOME.

(a) \* \* \*

(b) DEFINITIONS AND SPECIAL RULES.—For purposes of subsection (a)—

(1) \* \* \*

\* \* \* \* \*

(3) REQUIRED FOOTNOTES.—The pie-shaped graph showing the major outlay categories shall include the following footnotes:

(A) \* \* \*

\* \* \* \* \*

(C) A footnote to the category referred to in paragraph (1)(D) showing the percentage of the total outlays which is for medicaid, food stamps, and [aid to families with dependent children] *assistance under a State program funded under part A of title IV of the Social Security Act* and the percentage of total outlays which is for public health, unemployment, assisted housing, and social services.

\* \* \* \* \*

---

### SECTION 3 OF THE WAGNER-PEYSER ACT

SEC. 3. (a) \* \* \*

(b) It shall be the duty of the Secretary of Labor to assure that unemployment insurance and employment service offices in each State, as appropriate, upon request of a public agency administering or supervising the administration of a [State plan approved under part A of title IV] *State program funded under part A of title IV* of the Social Security Act, of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, or of a State agency charged with the administration of the food stamp program in a State under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), shall (and, notwithstanding any other provision of law, is authorized to) furnish to such agency making the request, from any data contained in the files of any such office, information with respect to any individual specified in the request as to (1) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (2) the current (or most recent) home address of such individual, and (3) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor.

---

### JOB TRAINING PARTNERSHIP ACT

\* \* \* \* \*

#### DEFINITIONS

SEC. 4. For the purposes of this Act, the following definitions apply:

(1) \* \* \*

\* \* \* \* \*

(29) The term “displaced homemaker” means an individual who has been providing unpaid services to family members in the home and who—

(A) has been dependent either—

(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act [(42 U.S.C. 601 et seq.)]; or

\* \* \* \* \*

## TITLE I—JOB TRAINING PARTNERSHIP

### PART A—SERVICE DELIVERY SYSTEM

\* \* \* \* \*

#### PERFORMANCE STANDARDS

SEC. 106. (a) \* \* \*

(b) TITLE II PERFORMANCE STANDARDS.—

(1) \* \* \*

\* \* \* \* \*

(6) REQUIREMENTS.—The performance standards described in paragraphs (3) and (4) shall include provisions governing—

(A) \* \* \*

\* \* \* \* \*

(C) cost-effective methods for obtaining such data as are necessary to carry out this section and section 452(d) which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, records collected under the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1986), [State aid to families with dependent children records,] *records collected under the State program funded under part A of title IV of the Social Security Act*, statistical sampling techniques, and similar records or measures, with appropriate safeguards to protect the confidentiality of the information obtained.

\* \* \* \* \*

### PART B—ADDITIONAL STATE RESPONSIBILITIES

#### GOVERNOR’S COORDINATION AND SPECIAL SERVICES PLAN

SEC. 121. (a) \* \* \*

(b)(1) \* \* \*

(2) The plan shall describe the measures taken by the State to ensure coordination and avoid duplication between the State agencies administering [the JOBS program] *the work activities required under title IV of the Social Security Act* and programs under title II in the planning and delivery of services. [The plan shall describe the procedures developed by the State to ensure that the State JOBS plan is consistent with the coordination criteria specified in this plan and identify the procedures developed to provide

for the review of the JOBS plan by the State Job Training Coordinating Council.】

\* \* \* \* \*

#### STATE EDUCATION COORDINATION AND GRANTS

##### SEC. 123. (a) \* \* \*

\* \* \* \* \*

(c) GOVERNOR'S PLAN REQUIREMENTS.—The State education agency shall submit for inclusion in the Governor's coordination and special services plan a description developed jointly by the State education agency and the Governor of—

(1) the goals to be achieved and services to be provided by the school-to-work transition programs specified in subsection (a)(2)(A) that will receive the assistance, which description shall, at a minimum, include information regarding—

(A) \* \* \*

\* \* \* \* \*

(E) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

(i) title II and part B of title IV;

\* \* \* \* \*

【(vi) the JOBS program;】

\* \* \* \* \*

(2) the goals to be achieved and services to be provided by literacy and lifelong learning programs specified in subsection (a)(2)(B) that will receive the assistance, which description shall, at a minimum, include information regarding—

(A) \* \* \*

\* \* \* \* \*

(D) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

(i) titles II and III;

(ii) the Adult Education Act;

(iii) the Carl D. Perkins Vocational and Applied Technology Education Act;

(iv) the Stewart B. McKinney Homeless Assistance Act;

【(v) the JOBS program;】

\* \* \* \* \*

## TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

### PART A—ADULT TRAINING PROGRAM

\* \* \* \* \*

**SEC. 203. ELIGIBILITY FOR SERVICES.**

(a) \* \* \*

(b) **HARD-TO-SERVE INDIVIDUALS.**—Not less than 65 percent of the participants in the program under this part, other than participants served under section 204(d), in each service delivery area shall be individuals who are included in 1 or more of the following categories:

- (1) Individuals who are basic skills deficient.
- (2) Individuals who are school dropouts.
- (3) Individuals who are recipients of cash welfare payments[, including recipients under the JOBS program].

\* \* \* \* \*

**SEC. 204. PROGRAM DESIGN.**(a) **ESSENTIAL ELEMENTS.**—

(1) **IN GENERAL.**—The programs under this part shall include—

(A) an objective assessment of the skill levels and service needs of each participant, which shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program [(such as the JOBS program)];

(B) development of service strategies that shall identify the employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for participants taking into account the assessments conducted pursuant to subparagraph (A), except that a new service strategy for a participant is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program [(such as the JOBS program)];

\* \* \* \* \*

**SEC. 205. LINKAGES.**

(a) **IN GENERAL.**—In conducting the program assisted under this part, service delivery areas shall establish appropriate linkages with other Federal programs. Such programs shall include, where feasible, programs assisted under—

(1) the Adult Education Act (20 U.S.C. 1201 et seq.);

\* \* \* \* \*

[(4) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);]

*(4) the portions of title IV of the Social Security Act relating to work activities;*

\* \* \* \* \*

## PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM

\* \* \* \* \*

**SEC. 253. USE OF FUNDS.**

(a) \* \* \*

(b) BASIC AND REMEDIAL EDUCATION.—

(1) IN GENERAL.—A service delivery area shall expend funds (available under this Act or otherwise available to the service delivery area) for basic and remedial education and training as described in the job training plan under section 104.

(2) EDUCATION OR TRAINING.—The education and training authorized by paragraph (1) may be provided by—

(A) the year-round program under part C;

(B) the Job Corps;

[(C) the JOBS program;]

\* \* \* \* \*

(c) ASSESSMENT AND SERVICE STRATEGY.—

(1) ASSESSMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the programs under this part shall include an objective assessment of the basic skills and supportive services needs of each participant, which may include a review of occupational skills, prior work experience, employability, interests, and aptitudes.

(B) RECENT ASSESSMENT.—A new assessment, or a factor of such assessment, of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as [the JOBS program or] a regular high school academic program).

(2) SERVICE STRATEGY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the programs under this part shall include a service strategy for participants, which may identify achievement objectives, appropriate employment goals, and appropriate services for participants, taking into account the assessments conducted under paragraph (1).

(B) RECENT SERVICE STRATEGY.—A new service strategy for a participant is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as [the JOBS program or] a regular high school academic program).

\* \* \* \* \*

## PART C—YOUTH TRAINING PROGRAM

\* \* \* \* \*

**SEC. 264. PROGRAM DESIGN.**

(a) \* \* \*

(b) ESSENTIAL ELEMENTS.—

(1) IN GENERAL.—The programs under this part shall include—

(A) an objective assessment of the skill levels and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted under another education or training program [(such as the JOBS program)];

(B) development of service strategies that shall identify the employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for participants taking into account the assessments conducted pursuant to subparagraph (A), except that a new service strategy for a participant is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program [(such as the JOBS program)];

\* \* \* \* \*

(d) ADDITIONAL REQUIREMENTS.—

(1) \* \* \*

\* \* \* \* \*

(3) SKILLS TRAINING.—

(A) PREEMPLOYMENT AND WORK MATURITY SKILLS TRAINING.—Preemployment and work maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase the basic education or occupational skills of a participant. The additional services may be provided, concurrently or sequentially, under other education and training programs, including the Job Corps [and the JOBS program].

(B) ADDITIONAL SERVICES.—Work experience, job search assistance, job search skills training, and job club activities provided under this part shall be accompanied by additional services designed to increase the basic education or occupational skills of a participant. The additional services may be provided, concurrently or sequentially, under other education and training programs, including the Job Corps [and the JOBS program].

\* \* \* \* \*

#### SEC. 265. LINKAGES.

(a) \* \* \*

\* \* \* \* \*

(b) EDUCATION AND TRAINING PROGRAM LINKAGES.—In conducting the program assisted under this part, service delivery areas shall establish appropriate linkages with other education and



training programs authorized under Federal law. Such programs shall include, where feasible, programs assisted under—

(1) \* \* \*

\* \* \* \* \*

[(6) part F of title IV of the Social Security Act (JOBS) (42 U.S.C. 681 et seq.);]

(6) *the portion of title IV of the Social Security Act relating to work activities;*

\* \* \* \* \*

#### TITLE IV—FEDERALLY ADMINISTERED PROGRAMS

\* \* \* \* \*

##### PART B—JOB CORPS

\* \* \* \* \*

##### ALLOWANCES AND SUPPORT

SEC. 429. (a) \* \* \*

\* \* \* \* \*

(e) In addition to child care assistance provided under section 428(e), the Secretary shall provide enrollees who otherwise could not participate in the Job Corps with allowances to pay for child care costs, such as food, clothing, and health care for the child. Allowances under this subsection may only be provided during the first 2 months of an enrollee's participation in the program [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))].

\* \* \* \* \*

##### PART D—NATIONAL ACTIVITIES

\* \* \* \* \*

##### GUIDANCE ON ELIGIBILITY VERIFICATION

SEC. 454. (a) \* \* \*

\* \* \* \* \*

(c) CONTENTS.—The guidance provided pursuant to subsection (a) shall specifically address income eligibility, assessment, the determination regarding whether an individual is a hard-to-serve individual, and specific uniform or standardized documentation forms or procedures (including simplified standardized forms, automated intake procedures, and self-certification documents) and other documentation proxies (such as [JOBS and] Job Corps eligibility forms).

\* \* \* \* \*

##### UNIFORM REPORTING REQUIREMENTS

SEC. 455. (a) \* \* \*

(b) DATA ELEMENTS.—The Secretaries of Labor, Education, and Health and Human Services, in consultation with other appropriate departments and with the National Occupational Information Coordinating Committee, shall identify a core set of consistently defined data elements for employment and training programs, including those funded under titles II, III, and IV of this Act, the Wagner-Peyser Act (29 U.S.C. 49 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), [the JOBS program,] and title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

\* \* \* \* \*

## TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

### SEC. 501. STATEMENT OF PURPOSE.

It is the purpose of this title to provide incentives to reduce welfare dependency, promote self-sufficiency, increase child support payments, and increase employment and earnings of individuals by providing to each participating State a bonus for providing job training to—

- (1) absent parents of children receiving [aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)] *assistance under the State program funded under part A of title IV of the Social Security Act*, who subsequent to such training pay child support for their children; and

\* \* \* \* \*

### SEC. 506. ELIGIBILITY FOR INCENTIVE BONUSES.

An individual shall be eligible to participate in a program established under this title if—

- (1) the individual—

- (A) was an absent parent of any child receiving [aid to families with dependent children] *assistance under the State program funded under part A of title IV of the Social Security Act* at the time such individual was determined to be eligible to participate in activities provided under this Act;

\* \* \* \* \*

### SEC. 508. EVALUATION AND REPORT.

- (a) EVALUATION.—

- (1) IN GENERAL.—The Secretary shall conduct or provide for an evaluation of the incentive bonus program assisted under this title.

- (2) CONSIDERATIONS.—The Secretary shall consider—

- (A) whether the program results in increased service under this Act to absent parents of children receiving [aid to families with dependent children] *assistance under the State program funded under part A of title IV of the Social*

Security Act and to recipients of supplemental security income under title XVI of the Social Security Act;

\* \* \* \* \*

## **TITLE VII—STATE HUMAN RESOURCE INVESTMENT COUNCIL**

### **SEC. 701. ESTABLISHMENT AND FUNCTIONS.**

(a) \* \* \*

(b) APPLICABLE FEDERAL HUMAN RESOURCE PROGRAM DEFINED.—

(1) \* \* \*

(2) PROGRAMS.—In accordance with the requirements of paragraph (1), applicable Federal human resource programs—

(A) may include the programs authorized under—

(i) \* \* \*

\* \* \* \* \*

(v) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

and

[(vi) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.); and]

\* \* \* \* \*

---

### **SECTION 3803 OF TITLE 31, UNITED STATES CODE**

#### **§ 3803. Hearing and determinations**

(a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

(2)(A) \* \* \*

\* \* \* \* \*

(C) For purposes of this subsection, the term “benefits” means—

(i) \* \* \*

\* \* \* \* \*

[(iv) aid to families with dependent children under a State plan approved under section 402(a) of the Social Security Act;]

*(iv) assistance under a State program funded under part A of title IV of the Social Security Act;*

\* \* \* \* \*

---

## SECTION 2605 OF THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981

### APPLICATIONS AND REQUIREMENTS

SEC. 2605. (a) \* \* \*

(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

(1) \* \* \*

(2) make payments under this title only with respect to—  
(A) households in which 1 or more individuals are receiving—

[(i) aid to families with dependent children under the State's plan approved under part A of title IV of the Social Security Act (other than such aid in the form of foster care in accordance with section 408 of such Act);]

(i) *assistance under the State program funded under part A of title IV of the Social Security Act;*

\* \* \* \* \*

## FAMILY SUPPORT ACT OF 1988

\* \* \* \* \*

## TITLE I—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

\* \* \* \* \*

### Subtitle B—Establishment of Paternity

\* \* \* \* \*

#### SEC. 123. AUTOMATED TRACKING AND MONITORING SYSTEMS MADE MANDATORY.

(a) \* \* \*

\* \* \* \* \*

[(c) REPEAL OF 90-PERCENT FEDERAL REIMBURSEMENT RATE FOR AUTOMATED DATA SYSTEMS.—Effective September 30, 1995, section 455(a)(1) of such Act (as amended by section 112(a) of this Act) is amended—

[(1) by striking subparagraphs (A) and (B);

[(2) by redesignating subparagraph (C) as subparagraph (A);

[(3) in subparagraph (A) (as so redesignated)—

[(A) by striking “(rather than the percentage specified in subparagraph (A))”; and

[(B) by inserting “and” after the semicolon; and

[(4) by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

["(B) equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454;".]

\* \* \* \* \*

### TITLE III—SUPPORTIVE SERVICES FOR FAMILIES

\* \* \* \* \*

#### SEC. 303. EXTENDED ELIGIBILITY FOR MEDICAL ASSISTANCE.

(a) \* \* \*

\* \* \* \* \*

(f) EFFECTIVE DATE.—(1) The amendments made by this section (other than subsections (b)(3), (d), and (e)) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after April 1, 1990 (or, in the case of the Commonwealth of Kentucky, October 1, 1990) (without regard to whether regulations to implement such amendments are promulgated by such date), with respect to families that cease to be eligible for aid under part A of title IV of the Social Security Act on or after such date.

(2) [(A)] The amendment made by subsection (b)(3) shall become effective on April 1, 1990, but such amendment shall not apply with respect to families that cease to be eligible for aid under part A of title IV of the Social Security Act before such date.

[(B) Effective September 30, 1998, the amendment made by subsection (b)(3) is repealed.

[(C) Section 402(a)(37) of the Social Security Act, as in effect immediately before April 1, 1990, shall become effective on September 30, 1998.]

\* \* \* \* \*

### TITLE V—DEMONSTRATION PROJECTS

\* \* \* \* \*

#### SEC. 505. [DEMONSTRATION] PROJECTS TO EXPAND THE NUMBER OF JOB OPPORTUNITIES AVAILABLE TO CERTAIN LOW-INCOME INDIVIDUALS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) [in each of the fiscal years 1990, 1991, and 1992, shall enter into agreements with not less than 5 nor more than 10] *shall enter into agreements with* nonprofit organizations (including community development corporations) submitting applications under this section for the purpose of conducting [demonstration] projects in accordance with subsection (b) to create employment opportunities for certain low-income individuals.

(b) NATURE OF PROJECT.—(1) Each nonprofit organization conducting a [demonstration] project under this section shall pro-

vide technical and financial assistance to private employers in the community to assist them in creating employment and business opportunities for those individuals eligible to participate in the projects as described in this subsection.

(2) For purposes of this section, a nonprofit organization is any organization (including a community development corporation) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such Code.

(3) A low-income individual eligible to participate in a project conducted under this section is any individual eligible to receive [aid to families with dependent children under part A of title IV of the Social Security Act] *assistance under the program funded part A of title IV of the Social Security Act of the State in which the individual resides* and any other individual whose income level does not exceed 100 percent of the official poverty line as defined by the Office of Management and Budget and revised in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(c) CONTENT OF APPLICATIONS; SELECTION PRIORITY.—(1) Each nonprofit organization submitting an application under this section shall, as part of such application, describe—

(A) the technical and financial assistance that will be made available under the project conducted under this section;

(B) the geographic area to be served by the project;

(C) the percentage of low-income individuals (as described in subsection (b)) and individuals receiving [aid to families with dependent children under title IV of the Social Security Act] *assistance under a State program funded part A of title IV of the Social Security Act* in the area to be served by the project; and

(D) unemployment rates in the geographic areas to be served and (to the extent practicable) the jobs available and skills necessary to fill those vacancies in such areas.

(2) In approving applications under this section, the Secretary shall give priority to applications proposing to serve those areas containing the highest percentage of individuals receiving [aid to families with dependent children under title IV of such Act] *assistance under a State program funded part A of title IV of the Social Security Act*.

(d) ADMINISTRATION.—Each nonprofit organization participating in a [demonstration] project conducted under this section shall provide assurances in its agreement with the Secretary that it has or will have a cooperative relationship with the agency responsible for administering the [job opportunities and basic skills training program (as provided for under title IV of the Social Security Act)] *the State program funded under part A of title IV of the Social Security Act* in the area served by the project.

(e) DURATION.—Each demonstration project conducted under this section shall be commenced not later than September 30 of the fiscal year specified in the agreement described in subsection (a), and shall be conducted for a 6-year period; except that the Secretary may terminate a project before the end of such period if he determines that the nonprofit organization conducting the project

is not in substantial compliance with the terms of the agreement entered into with the Secretary under this section.

[(f) EVALUATION AND REPORT.—(1) The Secretary shall conduct an evaluation of the success of each demonstration project conducted under this section in creating job opportunities and may require each nonprofit organization conducting such a project to provide the Secretary with such information as the Secretary determines is necessary to prepare the report described in paragraph (2).

[(2) Not later than January 1, 1995, the Secretary shall submit to the Congress a report containing a summary of the evaluations conducted under paragraph (1), together with such recommendations as the Secretary determines are appropriate.

[(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants to conduct demonstration projects under this section, there is authorized to be appropriated not to exceed \$6,500,000 for each of the fiscal years 1990, 1991, 1992, 1993, 1994, 1995, and 1996.]

(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.*

\* \* \* \* \*

## BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

### PART C—EMERGENCY POWERS TO ELIMINATE DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT

\* \* \* \* \*

#### SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

(a) \* \* \*

\* \* \* \* \*

(h) **LOW-INCOME PROGRAMS.**—The following programs shall be exempt from reduction under any order issued under this part:

    [Aid to families with dependent children (75–0412–0–1–609);] *Block grants to States for temporary assistance for needy families;*

    Child nutrition (12–3539–0–1–605);

    Commodity supplemental food program (12–3512–0–1–605);

    Food stamp programs (12–3505–0–1–605 and 12–3550–0–1–605);

    Grants to States for Medicaid (75–0512–0–1–551);

    Supplemental Security Income Program (75–0406–0–1–609); and

    Women, infants, and children program (12–3510–0–1–605).

\* \* \* \* \*

**SEC. 256. EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES.**

(a) \* \* \*

\* \* \* \* \*

**[(k) SPECIAL RULES FOR THE JOBS PORTION OF AFDC.—**

**[(1) FULL AMOUNT OF SEQUESTRATION REQUIRED.—**Any order issued by the President under section 254 shall accomplish the full amount of any required sequestration of the job opportunities and basic skills training program under section 402(a)(19), and part F of title VI, of the Social Security Act, in the manner specified in this subsection. Such an order may not reduce any Federal matching rate pursuant to section 403(l) of the Social Security Act.

**[(2) NEW ALLOTMENT FORMULA.—**

**[(A) GENERAL RULE.—**Notwithstanding section 403(k) of the Social Security Act, each State's percentage share of the amount available after sequestration for direct spending pursuant to section 403(l) of such Act for the fiscal year to which the sequestration applies shall be equal to—

**[(i) the lesser of—**

**[(I) that percentage of the total amount paid to the States pursuant to such section 403(l) for the prior fiscal year that is represented by the amount paid to such State pursuant to such section 403(l) for the prior fiscal year; or**

**[(II) the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.**

**[(B) REALLOTMENT OF AMOUNTS REMAINING UNALLOTTED AFTER APPLICATION OF GENERAL RULE.—**Any amount made available after sequestration for direct spending pursuant to section 403(l) of the Social Security Act for the fiscal year to which the sequestration applies that remains unallotted as a result of subparagraph (A) of this paragraph shall be allotted among the States in proportion to the absolute difference between the amount allotted, respectively, to each State as a result of such subparagraph and the amount that would have been allotted to such State pursuant to section 403(k) of such Act had the sequestration not been in effect, except that a State may not be allotted an amount under this subparagraph that results in a total allotment to the State under this paragraph of more than the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.]

**[(1)] (k) EFFECTS OF SEQUESTRATION.—**The effects of sequestration shall be as follows:

(1) Budgetary resources sequestered from any account other than a trust or special fund account shall be permanently cancelled.

\* \* \* \* \*



# IMMIGRATION AND NATIONALITY ACT

\* \* \* \* \*

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### TITLE II—IMMIGRATION

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\* \* \* \* \*

#### SPECIAL AGRICULTURAL WORKERS

SEC. 210. (a) \* \* \*

\* \* \* \* \*

(f) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law, the alien is not eligible for [aid under a State plan approved under] *assistance under a State program funded under* part A of title IV of the Social Security Act. Notwithstanding the previous sentence, in the case of an alien who would be eligible for [aid under a State plan approved under] *assistance under a State program funded under* part A of title IV of the Social Security Act but for the previous sentence, the provisions of paragraph (3) of section 245A(h) shall apply in the same manner as they apply with respect to paragraph (1) of such section and, for this purpose, any reference in section 245A(h)(3) to paragraph (1) is deemed a reference to the previous sentence.

\* \* \* \* \*

#### REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

SEC. 213A. (a) *ENFORCEABILITY.*—(1) *No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed as a contract—*

(A) which is legally enforceable against the sponsor by the sponsored alien, the Federal Government, and by any State (or any political subdivision of such State) which provides any means-tested public benefits program, but not later than 10 years after the alien last receives any such benefit;

(B) in which the sponsor agrees to financially support the alien, so that the alien will not become a public charge; and

(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

(2) A contract under paragraph (1) shall be enforceable with respect to benefits provided to the alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III.

(b) **FORMS.**—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

(c) **REMEDIES.**—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

(d) **NOTIFICATION OF CHANGE OF ADDRESS.**—

(1) **IN GENERAL.**—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(2).

(2) **PENALTY.**—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

(A) not less than \$250 or more than \$2,000, or

(B) if such failure occurs with knowledge that the alien has received any means-tested public benefit, not less than \$2,000 or more than \$5,000.

(e) **REIMBURSEMENT OF GOVERNMENT EXPENSES.**—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(3) *If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.*

(4) *No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.*

(5) *If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.*

(f) *DEFINITIONS.—For the purposes of this section—*

(1) *SPONSOR.—The term “sponsor” means an individual who—*

*(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;*

*(B) is 18 years of age or over;*

*(C) is domiciled in any 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.*

\* \* \* \* \*

#### CHAPTER 5—DEPORTATION; ADJUSTMENT OF STATUS

\* \* \* \* \*

ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR LAWFUL RESIDENCE

SEC. 245A. (a) \* \* \*

\* \* \* \* \*

(h) **TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING CERTAIN PUBLIC WELFARE ASSISTANCE.—**

(1) **IN GENERAL.—**During the five-year period beginning on the date an alien was granted lawful temporary resident status

under subsection (a), and notwithstanding any other provision of law—

(A) except as provided in paragraphs (2) and (3), the alien is not eligible for—

(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the [program of aid to families with dependent children] *State program of assistance* under part A of title IV of the Social Security Act),

(2) EXCEPTIONS.—Paragraph (1) shall not apply—

(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422, as in effect on April 1, 1983), or

(B) in the case of assistance (other than [aid to families with dependent children] *assistance under a State program funded under part A of title IV of the Social Security Act*) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

\* \* \* \* \*

#### TITLE IV—MISCELLANEOUS AND REFUGEE ASSISTANCE

\* \* \* \* \*

##### CHAPTER 2—REFUGEE ASSISTANCE

\* \* \* \* \*

#### AUTHORIZATION FOR PROGRAMS FOR DOMESTIC RESETTLEMENT OF AND ASSISTANCE TO REFUGEES

\* \* \* \* \*

##### SEC. 412. (a) \* \* \*

\* \* \* \* \*

(e) CASH ASSISTANCE AND MEDICAL ASSISTANCE TO REFUGEES.—(1) \* \* \*

\* \* \* \* \*

(4) If a refugee is eligible for aid or assistance under a [State plan approved] *State program funded* under part A of title IV or under title XIX of the Social Security Act, or for supplemental security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments, with respect to cash and medical assistance provided with respect to such refugee under this paragraph.

\* \* \* \* \*

## SECTION 640 OF THE HEAD START ACT

### ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE

SEC. 640. (a)(1) \* \* \*

\* \* \* \* \*

(4) Subject to section 639(b), the Secretary shall allot the remaining amounts appropriated in each fiscal year among the States, in accordance with latest satisfactory data so that—

(A) each State receives an amount which is equal to the amount the State received for fiscal year 1981; and

(B)(i)  $33\frac{1}{3}$  percent of any amount available after all allotments have been made under subparagraph (A) for such fiscal year shall be distributed on the basis of the relative number of children from birth through 18 years of age, on whose behalf payments are made under the [program of aid to families with dependent children under a State plan approved] *State program of assistance funded* under part A of title IV of the Social Security Act in each State as compared to all States; and

\* \* \* \* \*

## SECTION 9 OF THE ACT OF APRIL 19, 1950

AN ACT To promote the rehabilitation of the Navajo and Hopi Tribes of Indians and a better utilization of the resources of the Navajo and Hopi Indian Reservations, and for other purposes.

[SEC. 9. Beginning with the quarter commencing July 1, 1950, the Secretary of the Treasury shall pay quarterly to each State (from sums made available for making payments to the States under section 403(a) of the Social Security Act) an amount, in addition to the amount prescribed to be paid to such State under such section, equal to 80 per centum of the total amount of contributions by the State toward expenditures during the preceding quarter by the State, under the State plan approved under the Social Security Act for aid to dependent children to Navajo and Hopi Indians residing within the boundaries of the State on reservations or on allotted or trust lands, with respect to whom payments are made to the State by the United States under section 403(a) of the Social Security Act, not counting so much of such expenditure to any individual for any month as exceeds the limitations prescribed in such section.]

## SECTION 213 OF THE SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994

SEC. 213. APPLICATION.

(a) \* \* \*

\* \* \* \* \*

(d) STATE PLAN.—A State plan referred to in subsection (b)(1) shall—

(1) \* \* \*

\* \* \* \* \*

(6) describe the manner in which the statewide School-to-Work Opportunities system will coordinate with or integrate local school-to-work programs in existence on or after the date of the enactment of this Act, including programs financed from State and private sources, with funds available from such related Federal programs as programs under—

(A) the Adult Education Act (20 U.S.C. 1201 et seq.);

(B) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(C) the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.);

(D) the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.);

[(E) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);]

*(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;*

\* \* \* \* \*

## TITLE 5, UNITED STATES CODE

\* \* \* \* \*

### PART I—THE AGENCIES GENERALLY

\* \* \* \* \*

#### CHAPTER 5—ADMINISTRATIVE PROCEDURE

\* \* \* \* \*

#### SUBCHAPTER II—ADMINISTRATIVE PROCEDURE

\* \* \* \* \*

#### § 552a. Records maintained on individuals

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

(1) \* \* \*

\* \* \* \* \*

(8) the term “matching program”—

(A) \* \* \*

(B) but does not include—

(i) \* \* \*

\* \* \* \* \*

(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of

intercepting a tax refund due an individual under authority granted by [section 464 or 1137 of the Social Security Act] *section 404(e), 464, or 1137 of the Social Security Act*; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

\* \* \* \* \*

### **PART III—EMPLOYEES**

\* \* \* \* \*

#### **Subpart D—Pay and Allowances**

\* \* \* \* \*

#### **CHAPTER 55—PAY ADMINISTRATION**

\* \* \* \* \*

#### **SUBCHAPTER II—WITHHOLDING PAY**

\* \* \* \* \*

#### **§ 5520a. Garnishment of pay**

(a) \* \* \*

\* \* \* \* \*

(h)(1) Subject to the provisions of paragraph (2), if an agency is served under this section with more than one legal process with respect to the same payments due or payable to an employee, then such payments shall be available, subject to section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673), to satisfy such processes in priority based on the time of service, with any such process being satisfied out of such amounts as remain after satisfaction of all such processes which have been previously served.

(2) A legal process to which an agency is subject under [sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)] *section 459 of the Social Security Act (42 U.S.C. 659)* for the enforcement of the employee's legal obligation to provide child support or make alimony payments, shall have priority over any legal process to which an agency is subject under this section.

(i) The provisions of this section shall not modify or supersede the provisions of [sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)] *section 459 of the Social Security Act (42 U.S.C. 659)* concerning legal process brought for the en-

forcement of an individual's legal obligations to provide child support or make alimony payments.

\* \* \* \* \*

## SECTION 207 OF THE SOCIAL SECURITY INDEPENDENCE AND PROGRAM IMPROVEMENTS ACT OF 1994

### [(SEC. 207. DISABILITY REVIEW REQUIRED FOR SSI RECIPIENTS WHO ARE 18 YEARS OF AGE.]

#### [(a) DISABILITY REVIEW REQUIREMENT.—

[(1) IN GENERAL.—The applicable State agency or the Secretary of Health and Human Services (as may be appropriate) shall redetermine the eligibility of a qualified individual for supplemental security income benefits under title XVI of the Social Security Act by reason of disability, by applying the criteria used in determining eligibility for such benefits of applicants who have attained 18 years of age.

[(2) WHEN CONDUCTED.—The redetermination required by paragraph (1) with respect to a qualified individual shall be conducted during the 1-year period that begins on the date the qualified individual attains 18 years of age.

[(3) MINIMUM NUMBER OF REVIEWS.—The Secretary shall conduct redeterminations under paragraph (1) with respect to not less than  $\frac{1}{3}$  of qualified individuals in each of fiscal years 1996, 1997, and 1998.

[(4) QUALIFIED INDIVIDUAL DEFINED.—As used in this paragraph, the term “qualified individual” means a recipient of supplemental security income benefits under title XVI of the Social Security Act by reason of disability who attains 18 years of age in or after the 9th month after the month in which this Act is enacted.

[(5) SUBSTITUTE FOR A CONTINUING DISABILITY REVIEW.—A redetermination under paragraph (1) of this subsection shall be considered a substitute for a review required under section 1614(a)(3)(G) of the Social Security Act.

[(6) SUNSET.—Paragraph (1) shall have no force or effect after October 1, 1998.

[(b) REPORT TO THE CONGRESS.—Not later than October 1, 1998, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the activities conducted under subsection (a).]

## SECTION 1738B OF TITLE 28, UNITED STATES CODE

### § 1738B. Full faith and credit for child support orders

(a) GENERAL RULE.—The appropriate authorities of each State—

(1) shall enforce according to its terms a child support order made consistently with this section by a court of another State; and



(2) shall not seek or make a modification of such an order except in accordance with **subsection (e)** *subsections (e), (f), and (i).*

(b) DEFINITIONS.—In this section:

“child” means—

(A) a person under 18 years of age; and

(B) a person 18 or more years of age with respect to whom a child support order has been issued pursuant to the laws of a State.

“child’s State” means the State in which a child resides.

“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.

\* \* \* \* \*

(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—A child support order made *by a court of a State* is made consistently with this section if—

(1) a court that makes the order, pursuant to the laws of the State in which the court is located *and subsections (e), (f), and (g)*—

(A) has subject matter jurisdiction to hear the matter and enter such an order; and

(B) has personal jurisdiction over the contestants; and

(2) reasonable notice and opportunity to be heard is given to the contestants.

(d) CONTINUING JURISDICTION.—A court of a State that has made a child support order consistently with this section has continuing, exclusive jurisdiction over the order if the State is the child’s State or the residence of any *individual* contestant unless the court of another State, acting in accordance with **subsection (e)** *subsections (e) and (f)*, has made a modification of the order.

(e) AUTHORITY TO MODIFY ORDERS.—A court of a State may **make a modification of a child support order with respect to a child that is made** *modify a child support order issued by a court of another State* if—

(1) the court has jurisdiction to make such a child support order *pursuant to subsection (i)*; and

(2)(A) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because that State no longer is the child’s State or the residence of any *individual* contestant; or

(B) each *individual* contestant has filed written consent **to that court’s making the modification and assuming** *with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume* continuing, exclusive jurisdiction over the order.

(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.*

**[(f)] (g) ENFORCEMENT OF [PRIOR] MODIFIED ORDERS.**—A court of a State that no longer has continuing, exclusive jurisdiction of a child support order may enforce the order with respect to nonmodifiable obligations and unsatisfied obligations that accrued before the date on which a modification of the order is made under **[subsection (e)] subsections (e) and (f).**

**[(g)] (h) CHOICE OF LAW.**—

(1) **IN GENERAL.**—In a proceeding to establish, modify, or enforce a child support order, the forum State's law shall apply except as provided in paragraphs (2) and (3).

(2) **Law of state of issuance of order.**—In interpreting a child support order *including the duration of current payments and other obligations of support*, a court shall apply the law of the State of the court that issued the order.

(3) **PERIOD OF LIMITATION.**—In an action to enforce *arrear*s under a child support order, a court shall apply the statute of limitation of the forum State or the State of the court that issued the order, whichever statute provides the longer period of limitation.

(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.*

---

## SECTION 604 OF THE FAIR CREDIT REPORTING ACT

### § 604. Permissible purposes of reports

A consumer reporting agency may furnish a consumer report under the following circumstances and no other:

(1) \* \* \*

\* \* \* \* \*

(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.*

## SECTION 1408 OF TITLE 10, UNITED STATES CODE

### § 1408. Payment of retired or retainer pay in compliance with court orders

(a) DEFINITIONS.—In this section:

(1) The term “court” means—

(A) any court of competent jurisdiction of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(B) any court of the United States (as defined in section 451 of title 28) having competent jurisdiction; [and]

(C) any court of competent jurisdiction of a foreign country with which the United States has an agreement requiring the United States to honor any court order of such country[.]; and

(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social

*Security Act), and, for purposes of this subparagraph, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.*

(2) The term "court order" means a final decree of divorce, dissolution, annulment, or legal separation issued by a court, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such previously issued decree), *or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p)), which—*

(A) is issued in accordance with the laws of the jurisdiction of that court;

(B) provides for—

(i) payment of child support [(as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))] *(as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 659(i)(2)))*;

(ii) payment of alimony [(as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))] *(as defined in section 459(i)(3) of the Social Security Act (42 U.S.C. 659(i)(3)))*; or

(iii) division of property (including a division of community property); and

\* \* \* \* \*

(d) PAYMENTS BY SECRETARY CONCERNED TO (OR FOR BENEFIT OF) SPOUSE OR FORMER SPOUSE.—(1) After effective service on the Secretary concerned of a court order providing for the payment of child support or alimony or, with respect to a division of property, specifically providing for the payment of an amount of the disposable retired pay from a member to the spouse or a former spouse of the member, the Secretary shall make payments (subject to the limitations of this section) from the disposable retired pay of the member to the spouse or former spouse *(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)* in an amount sufficient to satisfy the amount of child support and alimony set forth in the court order and, with respect to a division of property, in the amount of disposable retired pay specifically provided for in the court order. *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.* In the case of a member entitled to receive retired pay on the date of the effective service of the court order, such payments shall begin not later than 90 days after the date of effective service. In the case of a member not entitled to receive retired pay on the date of the effective serv-

ice of the court order, such payments shall begin not later than 90 days after the date on which the member first becomes entitled to receive retired pay.

\* \* \* \* \*

(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.*

\* \* \* \* \*

(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.

[(i)] (j) *REGULATIONS.*—The Secretaries concerned shall prescribe uniform regulations for the administration of this section.

(k) *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.

## TITLE 11, UNITED STATES CODE

\* \* \* \* \*

### CHAPTER 5—CREDITORS, THE DEBTOR, AND THE ESTATE

\* \* \* \* \*

#### SUBCHAPTER II—DEBTOR'S DUTIES AND BENEFITS

\* \* \* \* \*

#### § 523. Exceptions to discharge

(a) A discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) of this title does not discharge an individual debtor from any debt—

(1) \* \* \*

\* \* \* \* \*

(5) to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accord-

ance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that—

(A) such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to **section 402(a)(26)** *section 408(a)(4)* of the Social Security Act, or any such debt which has been assigned to the Federal Government or to a State or any political subdivision of such State); or

(B) such debt includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support;

\* \* \* \* \*

(16) for a fee or assessment that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a dwelling unit that has condominium ownership or in a share of a cooperative housing corporation, but only if such fee or assessment is payable for a period during which—

(A) the debtor physically occupied a dwelling unit in the condominium or cooperative project; or

(B) the debtor rented the dwelling unit to a tenant and received payments from the tenant for such period, but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee or assessment for a period arising before entry of the order for relief in a pending or subsequent bankruptcy case; **[or]**

(17) for a fee imposed by a court for the filing of a case, motion, complaint, or appeal, or for other costs and expenses assessed with respect to such filing, regardless of an assertion of poverty by the debtor under section 1915 (b) or (f) of title 28, or the debtor's status as a prisoner, as defined in section 1915(h) of title 28**].**; or

(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.).*

\* \* \* \* \*

## SECTION 609 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

### ADDITIONAL STANDARDS FOR GROUP HEALTH PLANS

SEC. 609. (a) GROUP HEALTH PLAN COVERAGE PURSUANT TO MEDICAL CHILD SUPPORT ORDERS.—

(1) IN GENERAL.—Each group health plan shall provide benefits in accordance with the applicable requirements of any qualified medical child support order.

(2) DEFINITIONS.—For purposes of this subsection—

(A) \* \* \*

(B) MEDICAL CHILD SUPPORT ORDER.—The term “medical child support order” means any judgment, decree, or

order (including approval of a settlement agreement) [issued by a court of competent jurisdiction] which—

(i) provides for child support with respect to a child of a participant under a group health plan or provides for health benefit coverage to such a child, is made pursuant to a State domestic relations law (including a community property law), and relates to benefits under such plan, or

(ii) enforces a law relating to medical child support described in section 1908 of the Social Security Act (as added by section 13822 of the Omnibus Budget Reconciliation Act of 1993) with respect to a group health plan[.],

*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.*

\* \* \* \* \*

## UNITED STATES HOUSING ACT OF 1937

### TITLE I—GENERAL PROGRAM OF ASSISTED HOUSING

\* \* \* \* \*

#### 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.*

\* \* \* \* \*

### SECTION 214 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980

#### RESTRICTION ON USE OF ASSISTED HOUSING

SEC. 214. (a) Notwithstanding any other provision of law, the [Secretary of Housing and Urban Development] *applicable Secretary* may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is—

(1) \* \* \*

\* \* \* \* \*

(b) For purposes of this section the term “financial assistance” means financial assistance made available pursuant to the United States Housing Act of 1937, Section 235, or 236 of the National Housing Act, *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*, or section 101 of the Housing and Urban Development Act of 1965.

(c)(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on the date of the enactment of the Housing and Community Development Act of 1987 is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937) or the [Secretary of Housing and Urban Development] *applicable Secretary* (in the case of any other financial assistance) may, in its discretion, take one of the following actions:

(A) \* \* \*

\* \* \* \* \*

(2) Notwithstanding any other provision of law, the [Secretary of Housing and Urban Development] *applicable Secretary* may not make financial assistance available for the benefit of—

(A) \* \* \*

\* \* \* \* \*

(d) The following conditions apply with respect to financial assistance being provided for the benefit of an individual:

(1) \* \* \*

(2) If such an individual is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987, there must be presented either—

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual’s alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the [Secretary] *applicable Secretary* determines constitutes reasonable evidence indicating a satisfactory immigration status.

(3) If the documentation described in paragraph (2)(A) is presented, the [Secretary] *applicable Secretary* shall utilize the individual’s alien file or alien admission number to verify with the Immigration and Naturalization Service the individual’s immigration status through an automated or other system (designated by the Service for use with States) that—

(A) utilizes the individual’s name, file number, admission number, or other means permitting efficient verification, and



(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on the date of enactment of the Housing and Community Development Act of 1987, if, at the time of application or recertification for financial assistance, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2)(A) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the **【Secretary】** *applicable Secretary*—

(i) shall provide a reasonable opportunity to submit to the **【Secretary】** *applicable Secretary* evidence indicating a satisfactory immigration status, or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3), and

\* \* \* \* \*

(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)—

(i) the **【Secretary】** *applicable Secretary* shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents or additional information for official verification,

(ii) pending such verification or appeal, the **【Secretary】** *applicable Secretary* may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and

(iii) the **【Secretary】** *applicable Secretary* shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the **【Secretary】** *applicable Secretary* determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

(A) the **【Secretary】** *applicable Secretary* shall deny or terminate the individual's eligibility for financial assistance, and

(B) the applicable fair hearing process shall be made available with respect to the individual.

(6) For purposes of paragraph (5)(B), the applicable fair hearing process made available with respect to any individual shall include not less than the following procedural protections:

(A) The **【Secretary】** *applicable Secretary* shall provide the individual with written notice of the determination described in paragraph (5) and of the opportunity for a hearing with respect to the determination.

(B) Upon timely request by the individual, the [Secretary] *applicable Secretary* shall provide a hearing before an impartial hearing officer designated by the [Secretary] *applicable Secretary*, at which hearing the individual may produce evidence of a satisfactory immigration status.

(C) The [Secretary] *applicable Secretary* shall notify the individual in writing of the decision of the hearing officer on the appeal of the determination in a timely manner.

(D) Financial assistance may not be denied or terminated until the completion of the hearing process.

For purposes of this subsection, [the term "Secretary"] *the term "applicable Secretary"* means the [Secretary of Housing and Urban Development] *applicable Secretary*, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.

(e) The [Secretary of Housing and Urban Development] *applicable Secretary* shall not take any compliance, disallowance, penalty, or other regulatory action against an entity with respect to any error in the entity's determination to make an individual eligible for financial assistance based on citizenship or immigration status—

(1) \* \* \*

\* \* \* \* \*

(g) The [Secretary of Housing and Urban Development] *applicable Secretary* is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs incurred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)).

(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.*

## SECTION 501 OF THE HOUSING ACT OF 1949

SEC. 501. (a) \* \* \*

\* \* \* \* \*

(h)[(1)] The Secretary may not restrict the availability of assistance under this title for any alien for whom assistance may not be restricted [by the Secretary of Housing and Urban Development] under section 214 of the Housing and Community Development Act of 1980.

[(2)] In carrying out any restriction established by the Secretary on the availability of assistance under this title for any alien, the Secretary shall follow procedures comparable to the pro-

cedures established in section 214 of the Housing and Community Development Act of 1980.】

\* \* \* \* \*

## SECTION 9442 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986

### SEC. 9442. MATERNAL AND CHILD HEALTH AND ADOPTION CLEARING HOUSE.

The Secretary of Health and Human Services shall establish, either directly or by grant or contract, a National Adoption Information Clearinghouse. The Clearinghouse shall-

(1) \* \* \*

\* \* \* \* \*

(4) upon the establishment of an adoption and foster care data collection system pursuant to section 479 of the Social Security Act (*as in effect before October 1, 1995*), disseminate the data and information made available through that system.

## CHILD ABUSE PREVENTION AND TREATMENT ACT

### 【SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

【(a) SHORT TITLE.—This Act may be cited as the “Child Abuse Prevention and Treatment Act”.

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

#### 【TABLE OF CONTENTS

【Sec. 1. Short title and table of contents.

【Sec. 2. Findings.

#### 【TITLE I—GENERAL PROGRAM

【Sec. 101. National Center on Child Abuse and Neglect.

【Sec. 102. Advisory Board on Child Abuse and Neglect.

【Sec. 103. Inter-Agency Task Force on Child Abuse and Neglect.

【Sec. 104. National clearinghouse for information relating to child abuse.

【Sec. 105. Research and assistance activities of the National Center on Child Abuse and Neglect.

【Sec. 106. Grants to public agencies and nonprofit private organizations for demonstration or service programs and projects.

【Sec. 107. Grants to States for child abuse and neglect prevention and treatment programs.

【Sec. 107A. Emergency child abuse prevention services grant.

【Sec. 108. Technical assistance to States for child abuse prevention and treatment programs.

【Sec. 109. Grants to States for programs relating to the investigation and prosecution of child abuse and neglect cases.

【Sec. 110. Miscellaneous requirements relating to assistance.

【Sec. 111. Coordination of child abuse and neglect programs.

【Sec. 112. Reports.

【Sec. 113. Definitions.

【Sec. 114. Authorization of appropriations.

#### 【TITLE II—GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS

【Sec. 201. Findings and purpose.

【Sec. 202. Definitions.

- [Sec. 203. Grants authorized.
- [Sec. 204. State eligibility.
- [Sec. 205. Limitations.
- [Sec. 206. Withholding.
- [Sec. 207. Audit.
- [Sec. 208. Report.

**[TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF  
HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS]**

- [Sec. 301. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.
- [Sec. 302. Provisions with respect to carrying out purpose of demonstration grants.
- [Sec. 303. Additional required agreements.
- [Sec. 304. Description of intended uses of grant.
- [Sec. 305. Requirement of submission of application.
- [Sec. 306. Authorization of appropriations.

**[SEC. 2. FINDINGS.]**

**[Congress finds that—**

**[(1) each year, hundreds of thousands of American children are victims of abuse and neglect with such numbers having increased dramatically over the past decade;**

**[(2) many of these children and their families fail to receive adequate protection or treatment;**

**[(3) the problem of child abuse and neglect requires a comprehensive approach that—**

**[(A) integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;**

**[(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;**

**[(C) emphasizes the need for abuse and neglect prevention, investigation, and treatment at the neighborhood level;**

**[(D) ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and**

**[(E) is sensitive to ethnic and cultural diversity;**

**[(4) the failure to coordinate and comprehensively prevent and treat child abuse and neglect threatens the futures of tens of thousands of children and results in a cost to the Nation of billions of dollars in direct expenditures for health, social, and special educational services and ultimately in the loss of work productivity;**

**[(5) all elements of American society have a shared responsibility in responding to this national child and family emergency;**

**[(6) substantial reductions in the prevalence and incidence of child abuse and neglect and the alleviation of its consequences are matters of the highest national priority;**

**[(7) national policy should strengthen families to remedy the causes of child abuse and neglect, provide support for intensive services to prevent the unnecessary removal of children from families, and promote the reunification of families if removal has taken place;**

**[(8) the child protection system should be comprehensive, child-centered, family-focused, and community-based, should**

incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social re-integration in an environment that fosters the health, self-respect, and dignity of the child;

[(9) because of the limited resources available in low-income communities, Federal aid for the child protection system should be distributed with due regard to the relative financial need of the communities;

[(10) the Federal government should ensure that every community in the United States has the fiscal, human, and technical resources necessary to develop and implement a successful and comprehensive child protection strategy;

[(11) the Federal government should provide leadership and assist communities in their child protection efforts by—

[(A) promoting coordinated planning among all levels of government;

[(B) generating and sharing knowledge relevant to child protection, including the development of models for service delivery;

[(C) strengthening the capacity of States to assist communities;

[(D) allocating sufficient financial resources to assist States in implementing community plans;

[(E) helping communities to carry out their child protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

[(F) providing leadership to end the abuse and neglect of the nation's children and youth.

## **[TITLE I—GENERAL PROGRAM**

### **[SEC. 101. NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.**

[(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish an office to be known as the National Center on Child Abuse and Neglect.

[(b) APPOINTMENT OF DIRECTOR.—

[(1) APPOINTMENT.—The Secretary shall appoint a Director of the Center. Except as otherwise provided in this Act, the Director shall be responsible only for administration and operation of the Center and for carrying out the functions of the Center under this Act. The Director shall have experience in the field of child abuse and neglect.

[(2) COMPENSATION.—The Director shall be compensated at the annual rate provided for a level GS–15 employee under section 5332 of title 5, United States Code.

[(c) OTHER STAFF AND RESOURCES.—The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act. The Secretary shall require that professional staff have experience relating to child abuse and neglect. The Secretary is required to justify, based on the priorities and needs of the Center, the hiring

of any professional staff member who does not have experience relating to child abuse and neglect.

**[SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.]**

**[(a) APPOINTMENT.]**—The Secretary shall appoint an advisory board to be known as the Advisory Board on Child Abuse and Neglect.

**[(b) SOLICITATION OF NOMINATIONS.]**—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointments required by subsection (a).

**[(c) COMPOSITION OF BOARD.]**—

**[(1) NUMBER OF MEMBERS.]**—The board shall consist of 15 members, each of which shall be a person who is recognized for expertise in an aspect of the area of child abuse, of which—

**[(A)]** 2 shall be members of the task force established under section 103; and

**[(B)]** 13 shall be members of the general public and may not be Federal employees.

**[(2) REPRESENTATION.]**—The Secretary shall appoint members from the general public under paragraph (1)(B) who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

**[(A)]** law (including the judiciary);

**[(B)]** psychology (including child development);

**[(C)]** social services (including child protective services);

**[(D)]** medicine (including pediatrics);

**[(E)]** State and local government;

**[(F)]** organizations providing services to disabled persons;

**[(G)]** organizations providing services to adolescents;

**[(H)]** teachers;

**[(I)]** parent self-help organizations;

**[(J)]** parents' groups; and

**[(K)]** voluntary groups.

**[(3) TERMS OF OFFICE.]**—(A) Except as otherwise provided in this subsection, members shall be appointed for terms of office of 4 years.

**[(B)]** Of the members of the board from the general public first appointed under subsection (a)—

**[(i)]** 4 shall be appointed for terms of office of 2 years;

**[(ii)]** 4 shall be appointed for terms of office of 3 years;

and

**[(iii)]** 5 shall be appointed for terms of office of 4 years, as determined by the members from the general public during the first meeting of the board.

**[(C)]** No member of the board appointed under subsection (a) shall be eligible to serve in excess of two consecutive terms, but may continue to serve until such member's successor is appointed.

**[(4) VACANCIES.]**—Any member of the board appointed under subsection (a) to fill a vacancy occurring before the expiration of the term to which such member's predecessor was ap-

pointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the board appointed under subsection (a), a replacement shall be appointed in the same manner in which the original appointment was made.

[(5) REMOVAL.—No member of the board may be removed during the term of office of such member except for just and sufficient cause.

[(d) ELECTION OF OFFICERS.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members from the general public.

[(e) MEETINGS.—The board shall meet not less than twice a year at the call of the chairperson. The chairperson, to the maximum extent practicable, shall coordinate meetings of the board with receipt of reports from the task force under section 103(f).

[(f) DUTIES.—The board shall—

[(1) annually submit to the Secretary and the appropriate committees of Congress a report containing—

[(A) recommendations on coordinating Federal child abuse and neglect activities to prevent duplication and ensure efficient allocations of resources and program effectiveness; and

[(B) recommendations as to carrying out the purposes of this Act;

[(2) annually submit to the Secretary and the Director a report containing long-term and short-term recommendations on—

[(A) programs;

[(B) research;

[(C) grant and contract needs;

[(D) areas of unmet needs; and

[(E) areas to which the Secretary should provide grant and contract priorities under sections 105 and 106;

[(3) annually review the budget of the Center and submit to the Director a report concerning such review; and

[(4) not later than 24 months after the date of the enactment of the Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Amendments Act of 1992, submit to the Secretary and the appropriate committees of the Congress a report containing the recommendations of the Board with respect to—

[(A) a national policy designed to reduce and ultimately to prevent child and youth maltreatment-related deaths, detailing appropriate roles and responsibilities for State and local governments and the private sector;

[(B) specific changes needed in Federal laws and programs to achieve an effective Federal role in the implementation of the policy specified in subparagraph (A); and

[(C) specific changes needed to improve national data collection with respect to child and youth maltreatment-related deaths.

[(g) COMPENSATION.—

[(1) IN GENERAL.—Except as provided in paragraph (3), members of the board, other than those regularly employed by

the Federal Government, while serving on business of the board, may receive compensation at a rate not in excess of the daily equivalent payable to a GS-18 employee under section 5332 of title 5, United States Code, including traveltime.

[(2) TRAVEL.—Except as provided in paragraph (3), members of the board, while serving on business of the board away from their homes or regular places of business, may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

[(3) RESTRICTION.—The Director may not compensate a member of the board under this section if the member is receiving compensation or travel expenses from another source while serving on business of the board.

[(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$1,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

**[SEC. 103. INTER-AGENCY TASK FORCE ON CHILD ABUSE AND NEGLECT.**

[(a) ESTABLISHMENT.—The Secretary shall establish a task force to be known as the Inter-Agency Task Force on Child Abuse and Neglect.

[(b) COMPOSITION.—The Secretary shall request representation for the task force from Federal agencies with responsibility for programs and activities related to child abuse and neglect.

[(c) CHAIRPERSON.—The task force shall be chaired by the Director.

[(d) DUTIES.—The task force shall—

[(1) coordinate Federal efforts with respect to child abuse prevention and treatment programs;

[(2) encourage the development by other Federal agencies of activities relating to child abuse prevention and treatment;

[(3) coordinate the use of grants received under this Act with the use of grants received under other programs;

[(4) prepare a comprehensive plan for coordinating the goals, objectives, and activities of all Federal agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than 12 months after the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988; and

[(5) coordinate adoption related activities, develop Federal standards with respect to adoption activities under this Act, and prevent duplication with respect to the allocation of resources to adoption activities.

[(e) MEETINGS.—The task force shall meet not less than three times annually at the call of the chairperson.

[(f) REPORTS.—The task force shall report not less than twice annually to the Center and the Board.

**[SEC. 104. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.**

[(a) ESTABLISHMENT.—Before the end of the 2-year period beginning on the date of the enactment of the Child Abuse Preven-



tion, Adoption, and Family Services Act of 1988, the Secretary shall through the Center, or by contract of no less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.

[(b) FUNCTIONS.—The Director shall, through the clearinghouse established by subsection (a)—

[(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, identification, and treatment of child abuse and neglect, including the information provided by the National Center for Child Abuse and Neglect under section 105(b);

[(2) maintain and disseminate information relating to—

[(A) the incidence of cases of child abuse and neglect in the general population;

[(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988;

[(C) the incidence of any such cases related to alcohol or drug abuse; and

[(D) State and local recordkeeping with respect to such cases; and

[(3) directly or through contract, identify effective programs carried out by the States pursuant to title II and provide technical assistance to the States in the implementation of such programs.

[(c) COORDINATION WITH AVAILABLE RESOURCES.—In establishing a national clearinghouse as required by subsection (a), the Director shall—

[(1) consult with other Federal agencies that operate similar clearinghouses;

[(2) consult with the head of each agency that is represented on the task force on the development of the components for information collection and management of such clearinghouse;

[(3) develop a Federal data system involving the elements under subsection (b) which, to the extent practicable, coordinates existing State, regional, and local data systems; and

[(4) solicit public comment on the components of such clearinghouse.

**[SEC. 105. RESEARCH AND ASSISTANCE ACTIVITIES OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.**

[(a) RESEARCH.—

[(1) TOPICS.—The Secretary shall, through the Center, conduct research on—

[(A) the causes, prevention, identification,, treatment and cultural distinctions of child abuse and neglect;

[(B) appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse; and

[(C) the national incidence of child abuse and neglect, including—

[(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;

[(ii) the relationship of child abuse and neglect to nonpayment of child support, cultural diversity, disabilities, and various other factors; and

[(iii) the incidence of substantiated reported child abuse cases that result in civil child protection proceedings or criminal proceedings, including the number of such cases with respect to which the court makes a finding that abuse or neglect exists and the disposition of such cases.

[(2) PRIORITIES.—(A) The Secretary shall establish research and demonstration priorities for making grants or contracts for purposes of carrying out paragraph (1)(A) and activities under section 106.

[(B) In establishing research and demonstration priorities as required by subparagraph (A), the Secretary shall—

[(i) publish proposed priorities in the Federal Register for public comment; and

[(ii) allow not less than 60 days for public comment on such proposed priorities.

[(b) PUBLICATION AND DISSEMINATION OF INFORMATION.—The Secretary shall, through the Center—

[(1) as a part of research activities, establish a national data collection and analysis program—

[(A) which, to the extent practicable, coordinates existing State child abuse and neglect reports and which shall include—

[(i) standardized data on false, unfounded, or unsubstantiated reports; and

[(ii) information on the number of deaths due to child abuse and neglect; and

[(B) which shall collect, compile, analyze, and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case specific, and integrated with other case-based foster care and adoption data collected by the Secretary;

[(2) annually compile and analyze research on child abuse and neglect and publish a summary of such research;

[(3) compile, evaluate, publish, and disseminate to the States and to the clearinghouse, established under section 104, materials and information designed to assist the States in developing, establishing, and operating the programs described in section 109, including an evaluation of—

[(A) various methods and procedures for the investigation and prosecution of child physical and sexual abuse cases; and

[(B) resultant psychological trauma to the child victim;

[(4) compile, publish, and disseminate training materials—

[(A) for persons who are engaged in or intend to engage in the prevention, identification, and treatment of child abuse and neglect; and

[(B) to appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse; and

[(5) establish model information collection systems, in consultation with appropriate State and local agencies and professionals.

[(c) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall, through the Center, provide technical assistance to public and nonprofit private agencies and organizations, including disability organizations and persons who work with children with disabilities, to assist such agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

[(d) AUTHORITY TO MAKE GRANTS OR ENTER INTO CONTRACTS.—

[(1) IN GENERAL.—The functions of the Secretary under this section may be carried out either directly or through grant or contract.

[(2) DURATION.—Grants under this section shall be made for periods of not more than 5 years. The Secretary shall review each such grant at least annually, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant.

[(3) PREFERENCE FOR LONG-TERM STUDIES.—In making grants for purposes of conducting research under subsection (a), the Secretary shall give special consideration to applications for long-term projects.

[(e) PEER REVIEW FOR GRANTS.—

[(1) ESTABLISHMENT OF PEER REVIEW PROCESS.—(A) The Secretary shall establish a formal peer review process for purposes of evaluating and reviewing applications for grants and contracts under this section and determining the relative merits of the projects for which such assistance is requested.

[(B) In establishing the process required by subparagraph (A), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Office of Human Development. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this section, but may not meet less than once a year.

[(2) REVIEW OF APPLICATIONS FOR ASSISTANCE.—Each peer review panel established under paragraph (1)(A) that reviews any application for a grant, contract, or other financial assistance shall—

[(A) determine and evaluate the merit of each project described in such application;

[(B) rank such application with respect to all other applications it reviews in the same priority area for the fiscal

year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

[(C) make recommendations to the Secretary concerning whether the application for the project shall be approved.

[(3) NOTICE OF APPROVAL.—(A) The Secretary shall provide grants and contracts under this section from among the projects which the peer review panels established under paragraph (1)(A) have determined to have merit.

[(B) In the instance in which the Secretary approves an application for a program without having approved all applications ranked above such application (as determined under subsection (e)(2)(B)), the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit, as indicated on the list under subsection (e)(2)(B).

**[SEC. 106. GRANTS TO PUBLIC AGENCIES AND NONPROFIT PRIVATE ORGANIZATIONS FOR DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS.**

[(a) GENERAL AUTHORITY.—

[(1) DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS.—The Secretary, through the Center, shall, in accordance with subsections (b) and (c), make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations of such agencies or organizations) for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect.

[(2) EVALUATIONS.—In making grants or entering into contracts for demonstration projects, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or contract, or as a separate grant or contract entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

[(b) GRANTS FOR RESOURCE CENTERS.—The Secretary shall, directly or through grants or contracts with public or private nonprofit organizations under this section, provide for the establishment of resource centers—

[(1) serving defined geographic areas;

[(2) staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect; and

[(3) providing advice and consultation to individuals, agencies, and organizations which request such services.

[(c) DISCRETIONARY GRANTS.—In addition to grants or contracts made under subsection (b), grants or contracts under this section may be used for the following:

[(1) Training programs—

[(A) for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work

in, the field of prevention, identification, and treatment of child abuse and neglect;

[(B) to provide culturally specific instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with disabilities; or

[(C) to improve the recruitment, selection, and training of volunteers serving in private and public nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally.

[(2) Such other innovative programs and projects as the Secretary may approve, including programs and projects for parent self-help, for prevention and treatment of alcohol and drug-related child abuse and neglect, and for home health visitor programs designed to reach parents of children in populations in which risk is high, that show promise of successfully preventing and treating cases of child abuse and neglect, and for a parent self-help program of demonstrated effectiveness which is national in scope.

[(3) Projects which provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.

[(4) Respite and crisis nursery programs provided by community-based organizations under the direction and supervision of hospitals.

[(5) Respite and crisis nursery programs provided by community-based organizations.

[(6)(A) Providing hospital-based information and referral services to—

[(i) parents of children with disabilities; and

[(ii) children who have been neglected or abused and their parents.

[(B) Except as provided in subparagraph (C)(iii), services provided under a grant received under this paragraph shall be provided at the hospital involved—

[(i) upon the birth or admission of a child with disabilities; and

[(ii) upon the treatment of a child for abuse or neglect.

[(C) Services, as determined as appropriate by the grantee, provided under a grant received under this paragraph shall be hospital-based and shall consist of—

[(i) the provision of notice to parents that information relating to community services is available;

[(ii) the provision of appropriate information to parents of a child with disabilities regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child;

[(iii) the provision of appropriate information to parents of a child who has been neglected or abused regarding resources in the community, particularly parent training

resources, that will assist such parents in caring for their child and reduce the possibility of abuse or neglect;

[(iv) the provision of appropriate follow-up services to parents of a child described in subparagraph (B) after the child has left the hospital; and

[(v) where necessary, assistance in coordination of community services available to parents of children described in subparagraph (B).

The grantee shall assure that parental involvement described in this subparagraph is voluntary.

[(D) For purposes of this paragraph, a qualified grantee is a nonprofit acute care hospital that—

[(i) is in a combination with—

[(I) a health-care provider organization;

[(II) a child welfare organization;

[(III) a disability organization; and

[(IV) a State child protection agency;

[(ii) submits an application for a grant under this paragraph that is approved by the Secretary;

[(iii) maintains an office in the hospital involved for purposes of providing services under such grant;

[(iv) provides assurances to the Secretary that in the conduct of the project the confidentiality of medical, social, and personal information concerning any person described in subparagraph (A) or (B) shall be maintained, and shall be disclosed only to qualified persons providing required services described in subparagraph (C) for purposes relating to conduct of the project; and

[(v) assumes legal responsibility for carrying out the terms and conditions of the grant.

[(E) In awarding grants under this paragraph, the Secretary shall—

[(i) give priority under this section for two grants under this paragraph, provided that one grant shall be made to provide services in an urban setting and one grant shall be made to provide services in rural setting; and

[(ii) encourage qualified grantees to combine the amounts received under the grant with other funds available to such grantees.

[(7) Such other innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect as the Secretary may approve.

**[SEC. 107. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.**

[(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary, acting through the Center, shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective service system of each such State in—

[(1) the intake and screening of reports of abuse and neglect through the improvement of the receipt of information, decisionmaking, public awareness, and training of staff;

[(2)(A) investigating such reports through improving response time, decisionmaking, referral to services, and training of staff;

[(B) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and

[(C) improving legal preparation and representation;

[(3) case management and delivery services provided to families through the improvement of response time in service provision, improving the training of staff, and increasing the numbers of families to be served;

[(4) enhancing the general child protective system by improving assessment tools, automation systems that support the program, information referral systems, and the overall training of staff to meet minimum competencies; or

[(5) developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs.

Not more than 15 percent of a grant under this subsection may be expended for carrying out paragraph (5). The preceding sentence does not apply to any program or activity authorized in any of paragraphs (1) through (4).

[(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for a grant under subsection (a), such State shall—

[(1) have in effect a State law relating to child abuse and neglect, including—

[(A) provisions for the reporting of known and suspected instances of child abuse and neglect; and

[(B) provisions for immunity from prosecution under State and local laws for persons who report instances of child abuse or neglect for circumstances arising from such reporting;

[(2) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child and of any other child under the same care who may be in danger of abuse or neglect;

[(3) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such—

[(A) administrative procedures;

[(B) personnel trained in child abuse and neglect prevention and treatment;

[(C) training procedures;

[(D) institutional and other facilities (public and private); and

[(E) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with child abuse and neglect cases in the State;

[(4) provide for—

[(A) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including methods to ensure that disclosure (and redisclosure) of information concerning child abuse or neglect involving specific individuals is made only to persons or entities that the State determines have a need for such information directly related to purposes of this Act; and

[(B) requirements for the prompt disclosure of all relevant information to any Federal, State, or local governmental entity, or any agent of such entity, with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

[(5) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

[(6) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

[(7) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to ensure that Federal funds made available under this Act for any fiscal year shall be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

[(8) provide for dissemination of information, including efforts to encourage more accurate reporting, to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect;

[(9) to the extent feasible, ensure that parental organizations combating child abuse and neglect receive preferential treatment; and

[(10) have in place for the purpose of responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

[(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

[(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

[(C) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to



prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

[(c) STATE PROGRAM PLAN.—To be eligible to receive a grant under this section, a State shall submit every four years a plan to the Secretary that specifies the child protective service system area or areas described in subsection (a) that the State intends to address with funds received under the grant. The plan shall describe the current system capacity of the State in the relevant area or areas from which to assess programs with grant funds and specify the manner in which funds from the State's programs will be used to make improvements. The plan required under this subsection shall contain, with respect to each area in which the State intends to use funds from the grant, the following information with respect to the State:

[(1) INTAKE AND SCREENING.—

[(A) STAFFING.—The number of child protective service workers responsible for the intake and screening of reports of abuse and neglect relative to the number of reports filed in the previous year.

[(B) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in report-taking, screening, decision-making, and referral for investigation.

[(C) PUBLIC EDUCATION.—An assessment of the State or local agency's public education program with respect to—

[(i) what is child abuse and neglect;

[(ii) who is obligated to report and who may choose to report; and

[(iii) how to report.

[(2) INVESTIGATION OF REPORTS.—

[(A) RESPONSE TIME.—The number of reports of child abuse and neglect filed in the State in the previous year where appropriate, the agency response time to each with respect to initial investigation, the number of substantiated and unsubstantiated reports, and where appropriate, the response time with respect to the provision of services.

[(B) STAFFING.—The number of child protective service workers responsible for the investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

[(C) INTERAGENCY COORDINATION.—A description of the extent to which interagency coordination processes exist and are available Statewide, and whether protocols or formal policies governing interagency relationships exist in the following areas—

[(i) multidisciplinary investigation teams among child welfare and law enforcement agencies;

[(ii) interagency coordination for the prevention, intervention and treatment of child abuse and neglect among agencies responsible for child protective services, criminal justice, schools, health, mental health, and substance abuse; and

[(iii) special interagency child fatality review panels, including a listing of those agencies that are involved.

[(D) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as investigation, risk assessment, court preparation, and referral to and provision of services.

[(E) LEGAL REPRESENTATION.—A description of the State agency's current capacity for legal representation, including the manner in which workers are prepared and trained for court preparation and attendance, including procedures for appealing substantiated reports of abuse and neglect.

[(3) CASE MANAGEMENT AND DELIVERY OF ONGOING FAMILY SERVICES.—For children for whom a report of abuse and neglect has been substantiated and the children remain in their own homes and are not currently at risk of removal, the State shall assess the activities and the outcomes of the following services:

[(A) RESPONSE TIME.—The number of cases opened for services as a result of investigation of child abuse and neglect reports filed in the previous year, including the response time with respect to the provision of services from the time of initial report and initial investigation.

[(B) STAFFING.—The number of child protective service workers responsible for providing services to children and their families in their own homes as a result of investigation of reports of child abuse and neglect.

[(C) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as risk assessment, court preparation, provision of services and determination of case disposition, including how such training is evaluated for effectiveness.

[(D) INTERAGENCY COORDINATION.—The extent to which treatment services for the child and other family members are coordinated with child welfare, social service, mental health, education, and other agencies.

[(4) GENERAL SYSTEM ENHANCEMENT.—

[(A) AUTOMATION.—A description of the capacity of current automated systems for tracking reports of child abuse and neglect from intake through final disposition and how personnel are trained in the use of such system.

[(B) ASSESSMENT TOOLS.—A description of whether, how, and what risk assessment tools are used for screening reports of abuse and neglect, determining whether child abuse and neglect has occurred, and assessing the appropriate level of State agency protection and intervention, including the extent to which such tool is used statewide and how workers are trained in its use.

[(C) INFORMATION AND REFERRAL.—A description and assessment of the extent to which a State has in place—

[(i) information and referral systems, including their availability and ability to link families to various child welfare services such as homemakers, intensive family-based services, emergency caretakers, home health visitors, daycare and services outside the child welfare system such as housing, nutrition, health care, special education, income support, and emergency resource assistance; and

[(ii) efforts undertaken to disseminate to the public information concerning the problem of child abuse and neglect and the prevention and treatment programs and services available to combat instances of such abuse and neglect.

[(D) STAFF CAPACITY AND COMPETENCE.—An assessment of basic and specialized training needs of all staff and current training provided staff. Assessment of the competencies of staff with respect to minimum knowledge in areas such as child development, cultural and ethnic diversity, functions and relationship of other systems to child protective services and in specific skills such as interviewing, assessment, and decisionmaking relative to the child and family, and the need for training consistent with such minimum competencies.

[(5) INNOVATIVE APPROACHES.—A description of—

[(A) research and demonstration efforts for developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs, including the interagency efforts at the State level; and

[(B) the manner in which proposed research and development activities build on existing capacity in the programs being addressed.

[(d) WAIVERS.—

[(1) GENERAL RULE.—Subject to paragraph (3) of this subsection, any State which does not qualify for assistance under this subsection may be granted a waiver of any requirement under paragraph (2) of this subsection—

[(A) for a period of not more than one year, if the Secretary makes a finding that such State is making a good faith effort to comply with any such requirement, and for a second one-year period if the Secretary makes a finding that such State is making substantial progress to achieve such compliance; or

[(B) for a nonrenewable period of not more than two years in the case of a State the legislature of which meets only biennially, if the Secretary makes a finding that such State is making a good faith effort to comply with such requirement.

[(2) EXTENSION.—(A) Subject to paragraph (3) of this subsection, any State whose waiver under paragraph (1) expired as of the end of fiscal year 1986 may be granted an extension of such waiver, if the Secretary makes a finding that such State is making a good faith effort to comply with the requirements under subsection (b) of this section—

[(i) through the end of fiscal year 1988; or

[(ii) in the case of a State the legislature of which meets biennially, through the end of the fiscal year 1989 or the end of the next regularly scheduled session of such legislature, whichever is earlier.

[(B) This provision shall be effective retroactively to October 1, 1986.

[(3) REQUIREMENTS UNDER SUBSECTION (b)(10).—No waiver under paragraph (1) or (2) may apply to any requirement under subsection (b)(10) of this section.

[(e) REDUCTION OF FUNDS IN CASE OF FAILURE TO OBLIGATE.—If a State fails to obligate funds awarded under subsection (a) before the expiration of the 18-month period beginning on the date of such award, the next award made to such State under this section after the expiration of such period shall be reduced by an amount equal of the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

[(f) RESTRICTIONS RELATING TO CHILD WELFARE SERVICES.—Programs or projects relating to child abuse and neglect assisted under part B of title IV of the Social Security Act shall comply with the requirements set forth in paragraphs (1)(A), (2), (4), (5), and (10) of subsection (b).

[(g) COMPLIANCE AND EDUCATION GRANTS.—The Secretary is authorized to make grants to the States for purposes of developing, implementing, or operating—

[(1) the procedures or programs required under subsection (b)(10);

[(2) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

[(A) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

[(B) the parents of such infants; and

[(3) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

[(A) existing social and health services;

[(B) financial assistance; and

[(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption.

#### **[SEC. 108. TECHNICAL ASSISTANCE TO STATES FOR CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS.]**

[(a) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide, directly or through grants or contracts with public or private nonprofit organizations, for—

[(1) training and technical assistance programs to assist States in developing, implementing, or operating programs and procedures meeting the requirements of section 107(b)(10); and

[(2) the establishment and operation of national and regional information and resource clearinghouses for the purpose of providing the most current and complete information regard-

ing medical treatment procedures and resources and community resources for the provision of services and treatment to disabled infants with life-threatening conditions, including—

[(A) compiling, maintaining, updating, and disseminating regional directories of community services and resources (including the names and phone numbers of State and local medical organizations) to assist parents, families, and physicians; and

[(B) attempting to coordinate the availability of appropriate regional education resources for health-care personnel.

[(b) LIMITATION ON FUNDING.—Not more than \$1,000,000 of the funds appropriated for any fiscal year for purposes of carrying out this title may be used to carry out this section.

**[SEC. 109. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.]**

[(a) GRANTS TO STATES.—The Secretary, acting through the Center and in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

[(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

[(2) the handling of cases of suspected child abuse or neglect related fatalities; and

[(3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.

[(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for assistance under this section, such State shall—

[(1) fulfill the requirements of sections

[(2) establish a task force as provided in subsection (c);

[(3) fulfill the requirements of subsection (d);

[(4) submit annually an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

[(A) make such reports to the Secretary as may reasonably be required; and

[(B) maintain and provide access to records relating to activities under subsections (a) and (b); and

[(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a).

[(c) STATE TASK FORCES.—

[(1) GENERAL RULE.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate, and maintain a State multidisciplinary task force on children's justice (hereinafter referred to as "State task force") composed of professionals with knowledge and experi-

ence relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities. The State task force shall include—

[(A) individuals representing the law enforcement community;

[(B) judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);

[(C) child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;

[(D) health and mental health professionals;

[(E) individuals representing child protective service agencies;

[(F) individuals experienced in working with children with disabilities

[(G) parents; and

[(H) representatives of parents' groups.

[(2) EXISTING TASK FORCE.—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

[(d) STATE TASK FORCE STUDY.—Before a State receives assistance under this section, and at three year intervals thereafter, the State task force shall comprehensively—

[(1) review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal;

[(2) make policy and training recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

[(e) ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.—

[(1) GENERAL RULE.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

[(A) investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family and which also ensures procedural fairness to the accused;

[(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases, and which also ensure procedural fairness to the accused; and

[(C) reform of State laws, ordinances, regulations, protocols and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.

[(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

[(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

[(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

[(f) FUNDS AVAILABLE.—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.

**[SEC. 110. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE.**

[(a) CONSTRUCTION OF FACILITIES.—

[(1) RESTRICTION ON USE OF FUNDS.—Assistance provided under this Act may not be used for construction of facilities.

[(2) LEASE, RENTAL, OR REPAIR.—The Secretary may authorize the use of funds received under this Act—

[(A) where adequate facilities are not otherwise available, for the lease or rental of facilities; or

[(B) for the repair or minor remodeling or alteration of existing facilities.

[(b) GEOGRAPHICAL DISTRIBUTION.—The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this Act among the States, among geographic areas of the Nation, and among rural and urban areas of the Nation. To the extent possible, the Secretary shall ensure that the citizens of each State receive assistance from at least one project under this Act.

[(c) PREVENTION ACTIVITIES.—The Secretary, in consultation with the task force and the board, shall ensure that a majority share of assistance under this Act is available for discretionary research and demonstration grants.

[(d) LIMITATION.—No funds appropriated for any grant or contract pursuant to authorizations made in this Act may be used for any purpose other than that for which such funds were authorized to be appropriated.

**[SEC. 111. COORDINATION OF CHILD ABUSE AND NEGLECT PROGRAMS.**

【The Secretary shall prescribe regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination among programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds.

**[SEC. 112. REPORTS.**

【(a) COORDINATION EFFORTS.—Not later than March 1 of the second year following the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report on efforts during the 2-year period preceding the date of the report to coordinate the objectives and activities of agencies and organizations which are responsible for programs and activities related to child abuse and neglect.

【(b) EFFECTIVENESS OF STATE PROGRAMS AND TECHNICAL ASSISTANCE.—Not later than two years after the first fiscal year for which funds are obligated under section 1404A of the Victims of Crime Act of 1984, the Secretary shall submit to the appropriate committees of Congress a report evaluating the effectiveness of—

【(1) assisted programs in achieving the objectives of section 109; and

【(2) the technical assistance provided under section 108.

**[SEC. 113. DEFINITIONS.**

【For purposes of this title—

【(1) the term “board” means the Advisory Board on Child Abuse and Neglect established under section 102;

【(2) the term “Center” means the National Center on Child Abuse and Neglect established under section 101;

【(3) the term “child” means a person who has not attained the lesser of—

【(A) the age of 18; or

【(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

【(4) the term “child abuse and neglect” means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by a person who is responsible for the child’s welfare, under circumstances which indicate that the child’s health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary;

【(5) the term “person who is responsible for the child’s welfare” includes—

【(A) any employee of a residential facility; and

【(B) any staff person providing out-of-home care;

【(6) the term “Secretary” means the Secretary of Health and Human Services;

【(7) the term “sexual abuse” includes—

【(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit con-



duct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

[(B) the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

[(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

[(9) the term "task force" means the Inter-Agency Task Force on Child Abuse and Neglect established under section 103; and

[(10) the term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—

[(A) the infant is chronically and irreversibly comatose;

[(B) the provision of such treatment would—

[(i) merely prolong dying;

[(ii) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

[(iii) otherwise be futile in terms of the survival of the infant; or

[(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

#### **[SEC. 114. AUTHORIZATION OF APPROPRIATIONS.**

[(a) IN GENERAL.—

[(1) AUTHORIZATION.—There are authorized to be appropriated to carry out this title, except for section 107A, \$100,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

[(2) ALLOCATIONS.—

[(A) Of the amounts appropriated under paragraph (1) for a fiscal year, \$5,000,000 shall be available for the purpose of making additional grants to the States to carry out the provisions of section 107(g).

[(B) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A)—

[(i) 33 $\frac{1}{3}$  percent shall be available for activities under sections 104, 105 and 106; and

[(ii) 66 $\frac{2}{3}$  percent of such amounts shall be made available in each such fiscal year for activities under sections 107 and 108.

[(b) AVAILABILITY OF FUNDS WITHOUT FISCAL YEAR LIMITATION.—The Secretary shall ensure that funds appropriated pursuant to authorizations in this title shall remain available until expended for the purposes for which they were appropriated.

## **[TITLE II—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS**

### **[SEC. 201. COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.**

[(a) PURPOSE.—The purpose of this title is to assist each State to develop and implement, or expand and enhance, a comprehensive, statewide system of family resource services through innovative funding mechanisms and collaboration with existing education, vocational rehabilitation, health, mental health, employment and training, child welfare, and other social services agencies within the State.

[(b) AUTHORITY.—The Secretary shall make grants to States on a formula basis for the purpose of—

[(1) establishing and expanding statewide networks of community-based family resource programs, including funds for the initial costs of providing specific family resource services, that ensure family involvement in the design and operation of family resource programs which are responsive to the unique and diverse strengths of children and families;

[(2) promoting child abuse and neglect prevention activities;

[(3) promoting the establishment and operation of State trust funds or other mechanisms for integrating child and family services funding streams in order to provide flexible funding for the development of community-based family resource programs;

[(4) establishing or expanding community-based collaboration to foster the development of a continuum of preventive services for children and families, which are family-centered and culturally competent;

[(5) encouraging public and private partnerships in the establishment and expansion of family resource programs; and

[(6) increasing and promoting interagency coordination among State agencies, and encouraging public and private partnerships in the establishment and expansion of family resource programs.

[(c) ELIGIBILITY FOR GRANTS.—A State is eligible for a grant under this section for any fiscal year if—

[(1) such State has established or maintained in the previous fiscal year—

[(A) a trust fund, including appropriations for such fund; or

[(B) any other mechanism that pools State, Federal, and private funds for integrating child and family service resources; and

[(2) such trust fund or other funding mechanism includes (in whole or in part) provisions making funding available spe-

cifically for a broad range of child abuse and neglect prevention activities and family resource programs.

**[(d) AMOUNT OF GRANT.—**

**[(1) IN GENERAL.—**Amounts appropriated for a fiscal year to provide grants under this section shall be allotted to the designated lead agencies of eligible States in each fiscal year so that—

**[(A)** 50 percent of the total amount appropriated for such fiscal year is allotted among each State based on the number of children under the age of 18 residing in each State, except that each State shall receive not less than \$100,000; and

**[(B)** the remaining 50 percent of the total amount appropriated for such fiscal year is allotted in an amount equal to 25 percent of the total amount allocated by each such State to the State's trust fund or other mechanism for integrating family resource services in the fiscal year prior to the fiscal year for which the allotment is being determined.

**[(2) ALLOCATION.—**Funds identified by the State for the purpose of qualifying for incentive funds under paragraph (1)(B) shall be allocated through the mechanism used to determine State eligibility under subsection (c) and shall be controlled by the lead agency described in subsection (f)(1).

**[(e) EXISTING GRANTS.—**A State or entity that has a grant in effect on the date of enactment of this section under the Family Resource and Support Program or the Emergency Child Abuse Prevention Grants Program shall continue to receive funds under such Programs, subject to the original terms under which such funds were granted, through the end of the applicable grant cycle.

**[(f) APPLICATION.—**No grant may be made to any eligible State under this section unless an application is prepared and submitted to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary determines to be essential to carry out the purposes and provisions of this section, including—

**[(1)** a description of the agency designated by the Chief Executive Officer of the State to administer the funds provided under this section and assume responsibility for implementation and oversight of the family resource programs and other child abuse and neglect prevention activities, and an assurance that the agency so designated—

**[(A)** is the trust fund advisory board, or an existing organization created by executive order or State statute that is not an existing State agency, that has interdisciplinary governance, including participants from communities, and that integrates family resource services and leverages State, Federal, and private funds for family resource programs; or

**[(B)** with respect to a State without a trust fund mechanism or other organization that meets the requirements of subparagraph (A), is an existing State agency, or other public, quasi-public, or nonprofit private agency responsible for the development and implementation of a

statewide network of community-based family resource programs;

[(2) assurances that the agency designated under paragraph (1) can demonstrate the capacity to fulfill the purposes described in subsection (a), and shall have—

[(A) a demonstrated ability to work with other State and community-based agencies, to provide training and technical assistance;

[(B) a commitment to parental participation in the design and implementation of family resource programs;

[(C) the capacity to promote a statewide system of family resource programs throughout the State; and

[(D) the capacity to exercise leadership in implementing effective strategies for capacity building, family and professional training, and access to, and funding for, family resource services across agencies;

[(3) an assurance that the State has an interagency process coordinated by the agency designated in paragraph (1) for effective program development that—

[(A) does not duplicate existing processes for developing collaborative efforts to better serve children and families;

[(B) provides a written strategic plan for the establishment of a network of family resource programs (publicly available and funded through public and private sources) that identifies specific measurable goals and objectives;

[(C) involves appropriate personnel in the process, including—

[(i) parents (including parents of children with disabilities) and prospective participants in family resource programs, including respite care programs;

[(ii) staff of existing programs providing family resource services, including staff of Head Start programs and community action agencies that provide such services;

[(iii) representatives of State and local government such as social service, health, mental health, education, vocational rehabilitation, employment, economic development agencies, and organizations providing community services activities;

[(iv) representatives of the business community;

[(v) representatives of general purpose local governments;

[(vi) representatives of groups with expertise in child abuse prevention, including respite and crisis care;

[(vii) representatives of local communities in which family resource programs are likely to be located;

[(viii) representatives of groups with expertise in providing services to children with disabilities; and

[(ix) other individuals with expertise in the services that the family resource programs of the State intend to offer; and

[(D) coordinates activities funded under this title with—

[(i) the State Interagency Coordinating Council, established under part H of the Individuals with Disabilities Education Act;

[(ii) the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12));

[(iii) the State Rehabilitation Advisory Council established under the Rehabilitation Act of 1973;

[(iv) the State Development Disabilities Planning Council, established under the Developmental Disabilities Assistance and Bill of Rights Act;

[(v) the Head Start State Collaboration project;

[(vi) the State Advisory group designated in the Juvenile Justice and Delinquency Prevention Act of 1974; and

[(vii) other local or regional family service councils within the State, to the extent that such councils exist;

[(4) an inventory and description of the current family resource programs operating in the State, the current unmet need for the services provided under such programs, including the need for building increased capacity to provide specific family resource services, including respite care, and the intended scope of the State family resource program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies;

[(5) evidence that Federal assistance received under this section—

[(A) has been supplemented with non-Federal public and private assistance, including a description of the projected level of financial commitment by the State to develop a family resource network; and

[(B) will be used to supplement and not supplant other State and local public funds expended for family resource programs;

[(6) a description of the core services, as required by this section, and other support services to be provided by the program and the manner in which such services will be provided, including the extent to which either family resources, centers, home visiting, or community collaboratives will be used;

[(7) a description of any public information activities the agency designated in paragraph (1) will undertake for the purpose of promoting family stability and preventing child abuse and neglect, including child sexual abuse;

[(8) an assurance that the State will provide funds for the initial startup costs associated with specific family resource services, including respite services, and a description of the services to be funded;

[(9) assurances that the State program will maintain cultural diversity and be culturally competent;

[(10) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

[(11) a description of the State and community-based interagency planning processes to be utilized to develop and implement family resource programs;

[(12) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (g);

[(13) a description of the outreach and other activities the program will undertake to maximize the participation of racial and ethnic minorities, persons with limited English proficiency, individuals with disabilities, and members of other underserved or underrepresented groups in all phases of the program;

[(14) a plan for providing training, technical assistance, and other assistance to local communities in program development and networking activities;

[(15) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family resource programs within the State;

[(16) a description of proposed actions by the State that will facilitate the changing of laws, regulations, policies, practices, procedures, and organizational structures, that impede the availability or provision of family resource services; and

[(17) an assurance that the State will provide the Secretary with reports, at such time and containing such information as the Secretary may require.

[(g) LOCAL PROGRAM REQUIREMENTS.—

[(1) IN GENERAL.—A State that receives a grant under this section shall use amounts received under such grant to establish local family resource programs that—

[(A) undertake a community-based needs assessment and program planning process which involves parents, and local public and nonprofit agencies (including those responsible for providing health, education, vocational rehabilitation, employment training, Head Start and other early childhood, child welfare, and social services);

[(B) develop a strategy to provide comprehensive services to families to meet identified needs through collaboration, including public-private partnerships;

[(C) identify appropriate community-based organizations to administer such programs locally;

[(D) provide core services, and other services directly or through contracts or agreements with other local agencies;

[(E) involve parents in the development, operation, and governance of the program; and

[(F) participate in the development and maintenance of a statewide network of family resource programs.

[(2) PRIORITY.—In awarding local grants under this section, a State shall give priority to programs serving low-income communities and programs serving young parents or parents with young children and shall ensure that such grants are equitably distributed among urban and rural areas.

[(h) DEFINITIONS.—As used in this section:

[(1) CHILDREN WITH DISABILITIES.—The term “children with disabilities” has the meaning given such term in section 602(a)(2) of Individuals With Disabilities Education Act.

[(2) COMMUNITY REFERRAL SERVICES.—The term “community referral services” means services to assist families in obtaining community resources, including respite services, health and mental health services, employability development and job training and other social services.

[(3) CULTURALLY COMPETENT.—The term “culturally competent” means services, supports, or other assistance that is conducted or provided in a manner that—

[(A) is responsive to the beliefs, interpersonal styles, attitudes, languages, and behaviors of those individuals receiving services; and

[(B) has the greatest likelihood of ensuring maximum participation of such individuals.

[(4) FAMILY RESOURCE PROGRAM.—The term “family resource program” means a program that offers community-based services that provide sustained assistance and support to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

[(A) the provisions of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

[(B) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

[(C) the creation of supportive networks to enhance the childrearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

[(5) FAMILY RESOURCE SERVICES.—The term “family resource services” means—

[(A) core services that must be provided directly by the family resource program under this section, including—

[(i) education and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

[(ii) early developmental screening of children to assess the needs of such children and to identify the types of support to be provided;

[(iii) outreach services;

[(iv) community referral services; and

[(v) follow-up services; and

[(B) other services, which may be provided either directly or through referral, including—

[(i) early care and education (such as child care and Head Start);

[(ii) respite services;

[(iii) job readiness and counseling services (including skill training);

[(iv) education and literacy services;

[(v) nutritional education;

[(vi) life management skills training;

[(vii) peer counseling and crisis intervention, and family violence counseling services;

[(viii) referral for health (including prenatal care) and mental health services;

[(ix) substance abuse treatment; and

[(x) services to support families of children with disabilities that are designed to prevent inappropriate out-of-the-home placement and maintain family unity.

[(6) INTERDISCIPLINARY GOVERNANCE.—The term “interdisciplinary governance” includes governance by representatives from communities and representatives from existing health, mental health, education, vocational rehabilitation, employment and training, child welfare, and other agencies within the State.

[(7) OUTREACH SERVICES.—The term “outreach services” means services provided to ensure (through home visits or other methods) that parents and other caretakers are aware of and able to participate in family resource program activities.

[(8) RESPITE SERVICES.—The term “respite services” means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, guardian) to children who meet one or more of the following categories:

[(A) The children are in danger of abuse or neglect.

[(B) The children have experienced abuse or neglect.

[(C) The children have disabilities, or chronic or terminal illnesses.

Services provided within or outside the child’s home shall be short-term care, ranging from a few hours to a few weeks of time, per year, and be intended to enable the family to stay together and to keep the child living in the child’s home and community.

[(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title, \$50,000,000 for fiscal year 1995.



### **[TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS**

#### **[SEC. 301. DEMONSTRATION GRANTS FOR PREVENTION OF INAPPROPRIATE SEPARATION FROM FAMILY AND FOR PREVENTION OF CHILD ABUSE AND NEGLECT.**

**[(a) ESTABLISHMENT OF PROGRAM.—**The Secretary may make grants to entities described in subsection (b)(1) for the purpose of assisting such entities in demonstrating, with respect to children whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

**[(1)** the inappropriate separation of such children from their families on the basis of homelessness or other problems regarding the availability and conditions of housing for such families; and

**[(2)** the abuse and neglect of such children.

**[(b) MINIMUM QUALIFICATIONS OF GRANTEEES.—**

**[(1) IN GENERAL.—**The entities referred to in subsection (a) are State and local agencies that provide services in geographic areas described in paragraph (2), and that have authority—

**[(A)** for removing children, temporarily or permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foster care or other out-of-home care; or

**[(B)** in the case of youths not less than 16 years of age for whom such a placement has been made, for assisting such youths in preparing to be discharged from such care into circumstances of providing for their own support.

**[(2) ELIGIBLE GEOGRAPHIC AREAS.—**The geographic areas referred to in paragraph (1) are geographic areas in which homelessness and other housing problems are—

**[(A)** threatening the well-being of children; and

**[(B)(i)** contributing to the placement of children in out-of-home care;

**[(ii)** preventing the reunification of children with their families; or

**[(iii)** in the case of youths not less than 16 years of age who have been placed in out-of-home care, preventing such youths from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

**[(3) COOPERATION WITH APPROPRIATE PUBLIC AND PRIVATE ENTITIES.—**The Secretary shall not make a grant under subsection (a) unless the agency involved has entered into agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

**[(c) REQUIREMENT OF MATCHING FUNDS.—**

[(1) IN GENERAL.—The Secretary shall not make a grant under subsection (a) unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than \$1 for each \$4 of Federal funds provided in such grant.

[(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

**[SEC. 302. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF DEMONSTRATION GRANTS.**

[(a) JOINT TRAINING OF APPROPRIATE SERVICE PERSONNEL.—

[(1) IN GENERAL.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

[(2) SPECIFICATION OF TRAINING SUBJECTS.—The subjects referred to in paragraph (1) are—

[(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

[(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

[(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged placement in out-of-home care of children whose families are homeless or who have other housing problems.

[(b) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to activities authorized in subsection (a), a grantee under section 301(a) may expend grant funds for—

[(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

[(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

[(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

[(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

[(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

- [(B) in obtaining appropriate resources for families who need social services, including supportive services and respite care;
- [(3) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and
- [(4) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

**[SEC. 303. ADDITIONAL REQUIRED AGREEMENTS.]**

[(a) **REPORTS TO SECRETARY.**—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees that such agency will—

[(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

[(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

[(A) the incidence of placements of children in out-of-home care;

[(B) the reunification of children with their families; and

[(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

[(b) **EVALUATION BY THE SECRETARY.**—The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 301(a) in—

[(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

[(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

[(3) facilitating the reunification of children with their families; and

[(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

[(c) **REPORT TO CONGRESS.**—

[(1) **PREPARATION OF LIST.**—Not later than April 1, 1991, the Secretary, after consultation with the Secretary of Education, the Secretary of Housing and Urban Development and the Secretary of Labor, shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a list of Federal programs that provide services, or fund

grants, contracts, or cooperative agreements for the provision of services, directed to the prevention of homelessness for families whose children are at risk of out of home placement and the incidence of child abuse that may be associated with homelessness, that shall include programs providing—

[(A) rent, utility, and other subsidies;

[(B) training; and

[(C) for inter-agency coordination, at both the local and State and Federal level.

[(2) CONTENTS OF LIST.—The list prepared under paragraph (1) shall include a description of—

[(A) the appropriate citations relating to the authority for such programs;

[(B) entities that are eligible to participate in each such program;

[(C) authorization levels and the annual amounts appropriated for such programs for each fiscal year in which such programs were authorized;

[(D) the agencies and divisions administering each such program;

[(E) the expiration date of the authority of each such program; and

[(F) to the extent available, the extent to which housing assistance under such programs can be accessed by child welfare and other appropriate agencies.

[(3) REPORT.—Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains a description of the activities carried out under this title, and an assessment of the effectiveness of such programs in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

[(A) information describing the localities in which activities are conducted;

[(B) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

[(C) information concerning the nature of the joint training conducted with grant funds;

[(D) information concerning the manner in which other agencies such as child welfare, public housing authorities, and appropriate public and nonprofit private entities are consulting and coordinating with existing programs that are designed to prevent homelessness and to serve homeless families and youth; and

[(E) information concerning the impact of programs supported with grant funds under this title on—

[(i) the incidence of the placement of children into out-of-home care;

[(ii) the reunification of children with their families; and

[(iii) in the case of youth not less than 16 years of age who have been placed in out-of-home care, the

discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

[(d) RESTRICTION ON USE OF GRANT.—The Secretary may not make a grant under section 301(a) unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

**[SEC. 304. DESCRIPTION OF INTENDED USES OF GRANT.**

[(The Secretary shall not make a grant under section 301(a) unless—

[(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

[(2) with respect to the entities with which the agency has made agreements pursuant to section 301(b)(1), such entities have assisted the agency in preparing the description required in paragraph (1); and

[(3) the description includes a statement of the methods that the agency will utilize in conducting the evaluations required in section 303(a)(2).

**[SEC. 305. REQUIREMENT OF SUBMISSION OF APPLICATION.**

[(The Secretary shall not make a grant under section 301(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 304, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

**[SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

[(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated \$12,500,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

[(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.]]

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the “Child and Family Services Block Grant Act of 1996”.*

**SEC. 2. FINDINGS.**

*The Congress finds the following:*

*(1) Each year, close to 1,000,000 American children are victims of abuse and neglect.*

*(2) Many of these children and their families fail to receive adequate protection or treatment.*

*(3) The problem of child abuse and neglect requires a comprehensive approach that—*

*(A) integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;*

*(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;*

(C) emphasizes the need for abuse and neglect prevention, assessment, investigation, and treatment at the neighborhood level;

(D) ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and

(E) is sensitive to ethnic and cultural diversity.

(4) The child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social reintegration in an environment that fosters the health, safety, self-respect, and dignity of the child.

(5) The Federal Government should provide leadership and assist communities in their child and family protection efforts by—

(A) generating and sharing knowledge relevant to child and family protection, including the development of models for service delivery;

(B) strengthening the capacity of States to assist communities;

(C) helping communities to carry out their child and family protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

(D) providing leadership to end the abuse and neglect of the Nation's children and youth.

### SEC. 3. PURPOSES.

The purposes of this Act are the following:

(1) To assist each State in improving the child protective service systems of such State by—

(A) improving risk and safety assessment tools and protocols;

(B) developing, strengthening, and facilitating training opportunities for individuals who are mandated to report child abuse or neglect or otherwise overseeing, investigating, prosecuting, or providing services to children and families who are at risk of abusing or neglecting their children; and

(C) developing, implementing, or operating information, education, training, or other programs designed to assist and provide services for families of disabled infants with life-threatening conditions.

(2) To support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that are culturally competent and that coordinate resources among existing education, vocational rehabilitation, disability, respite, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State.

(3) *To facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs, including disabled infants with life-threatening conditions, by—*

(A) *promoting model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption;*

(B) *providing a mechanism for the Department of Health and Human Services to—*

(i) *promote quality standards for adoption services, preplacement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;*

(ii) *maintain a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and*

(iii) *demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan; and*

(C) *facilitating the identification and recruitment of foster and adoptive families that can meet children's needs.*

(4) *To respond to the needs of children, in particular those who are drug exposed or afflicted with Acquired Immune Deficiency Syndrome (AIDS), by supporting activities aimed at preventing the abandonment of children, providing support to children and their families, and facilitating the recruitment and training of health and social service personnel.*

(5) *To carry out any other activities as the Secretary determines are consistent with this Act.*

#### **SEC. 4. DEFINITIONS.**

*As used in this Act:*

(1) *CHILD.—The term “child” means a person who has not attained the lesser of—*

(A) *the age of 18; or*

(B) *except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides.*

(2) *CHILD ABUSE AND NEGLECT.—The term “child abuse and neglect” means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.*

(3) *FAMILY RESOURCE AND SUPPORT PROGRAMS.—The term “family resource and support program” means a community-based, prevention-focused entity that—*

(A) *provides, through direct service, the core services required under this Act, including—*

(i) parent education, support and leadership services, together with services characterized by relationships between parents and professionals that are based on equality and respect, and designed to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

(ii) services to facilitate the ability of parents to serve as resources to one another (such as through mutual support and parent self-help groups);

(iii) early developmental screening of children to assess any needs of children, and to identify types of support that may be provided;

(iv) outreach services provided through voluntary home visits and other methods to assist parents in becoming aware of and able to participate in family resources and support program activities;

(v) community and social services to assist families in obtaining community resources; and

(vi) followup services;

(B) provides, or arranges for the provision of, other core services through contracts or agreements with other local agencies; and

(C) provides access to optional services, directly or by contract, purchase of service, or interagency agreement, including—

(i) child care, early childhood development and early intervention services;

(ii) self-sufficiency and life management skills training;

(iii) education services, such as scholastic tutoring, literacy training, and General Educational Degree services;

(iv) job readiness skills;

(v) child abuse and neglect prevention activities;

(vi) services that families with children with disabilities or special needs may require;

(vii) community and social service referral;

(viii) peer counseling;

(ix) referral for substance abuse counseling and treatment; and

(x) help line services.

(4) **INDIAN TRIBE AND TRIBAL ORGANIZATION.**—The terms “Indian tribe” and “tribal organization” shall have the same meanings given such terms in subsections (e) and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e) and (l)).

(5) **RESPIRE SERVICES.**—The term “respite services” means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

(A) are in danger of abuse or neglect;

(B) have experienced abuse or neglect; or

(C) have disabilities, chronic, or terminal illnesses.



*Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.*

(6) *SECRETARY.*—The term “Secretary” means the Secretary of Health and Human Services.

(7) *SEXUAL ABUSE.*—The term “sexual abuse” includes—

(A) *the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or*

(B) *the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children.*

(8) *STATE.*—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(9) *WITHHOLDING OF MEDICALLY INDICATED TREATMENT.*—The term “withholding of medically indicated treatment” means the failure to respond to the infant’s life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment—

(A) *the infant is chronically and irreversibly comatose;*

(B) *the provision of such treatment would—*

(i) *merely prolong dying;*

(ii) *not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or*

(iii) *otherwise be futile in terms of the survival of the infant; or*

(C) *the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.*

## **TITLE I—GENERAL BLOCK GRANT**

### **SEC. 101. CHILD AND FAMILY SERVICES BLOCK GRANTS.**

(a) *ELIGIBILITY.*—The Secretary shall award grants to eligible States that file a State plan that is approved under section 102 and that otherwise meet the eligibility requirements for grants under this title.

(b) *AMOUNT OF GRANT.*—The amount of a grant made to each State under subsection (a) for a fiscal year shall be based on the population of children under the age of 18 residing in each State that applies for a grant under this section.

(c) *USE OF AMOUNTS.*—Amounts received by a State under a grant awarded under subsection (a) shall be used to carry out the purposes described in section 3.

**SEC. 102. ELIGIBLE STATES.**

(a) *IN GENERAL.*—As used in this title, the term “eligible State” means a State that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:

(1) *OUTLINE OF CHILD PROTECTION PROGRAM.*—A written document that outlines the activities the State intends to conduct to achieve the purpose of this title, including the procedures to be used for—

(A) receiving and assessing reports of child abuse or neglect;

(B) investigating such reports;

(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;

(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;

(F) protecting children in foster care;

(G) promoting timely adoptions;

(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards; and

(I) providing services to individuals, families, or communities, either directly or through referral, that are aimed at preventing the occurrence of child abuse and neglect.

(2) *CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.*—A certification that the State has in effect laws that require public officials and other professionals to report, in good faith, actual or suspected instances of child abuse or neglect.

(3) *CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.*—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.

(4) *CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.*—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.

(5) *CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.*—A certification that the State has in effect laws

requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

(6) *CERTIFICATION OF PROVISIONS AND PROCEDURES RELATING TO APPEALS.*—A certification that not later than 2 years after the date of the enactment of this Act, the State shall have laws and procedures in effect affording individuals an opportunity to appeal an official finding of abuse or neglect.

(7) *CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.*—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.

(8) *CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.*—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.

(9) *CERTIFICATION OF STATE PROCEDURES TO RESPOND TO REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.*—

(A) *IN GENERAL.*—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

(iii) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

(B) *WITHHOLDING OF MEDICALLY INDICATED TREATMENT.*—As used in subparagraph (A), the term “withholding of medically indicated treatment” means the failure to respond to the infant’s life-threatening conditions by pro-

*viding treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that such term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—*

*(i) the infant is chronically and irreversibly comatose;*

*(ii) the provision of such treatment would—*

*(I) merely prolong dying;*

*(II) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or*

*(III) otherwise be futile in terms of the survival of the infant; or*

*(iii) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.*

**(10) IDENTIFICATION OF CHILD PROTECTION GOALS.**—*The quantitative goals of the State child protection program.*

**(11) CERTIFICATION OF CHILD PROTECTION STANDARDS.**—*With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—*

*(A) has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—*

*(i) the appropriateness of, and necessity for, the foster care placement;*

*(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and*

*(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;*

*(B) is operating, to the satisfaction of the Secretary—*

*(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;*

*(ii) a case review system for each child receiving foster care under the supervision of the State;*

*(iii) a service program designed to help children—*

*(I) where appropriate, return to families from which they have been removed; or*

*(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and*

(iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and

(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.

(12) CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.—A certification that the State in each case will—

(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child's home, and to make it possible for the child to return home; and

(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children where the State makes a determination that the child may safely remain with the family.

(13) CERTIFICATION OF CONFIDENTIALITY AND REQUIREMENTS FOR INFORMATION DISCLOSURE.—

(A) IN GENERAL.—A certification that the State has in effect and operational—

(i) requirements ensuring that reports and records made and maintained pursuant to the purposes of this part shall only be made available to—

(I) individuals who are the subject of the report;

(II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out their responsibilities under law to protect children from abuse and neglect;

(III) child abuse citizen review panels;

(IV) child fatality review panels;

(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose; and

(ii) provisions that allow for public disclosure of the findings or information about cases of child abuse or neglect that have resulted in a child fatality or near fatality.

(B) *LIMITATION.*—Disclosures made pursuant to clause (i) or (ii) shall not include the identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect.

(C) *DEFINITION.*—For purposes of this paragraph, the term “near fatality” means an act that, as certified by a physician, places the child in serious or critical condition.

(b) *DETERMINATIONS.*—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a), other than the material described in paragraph (9) of such subsection. The Secretary may not require a State to include in such a plan any material not described in subsection (a).

#### **SEC. 103. DATA COLLECTION AND REPORTING.**

(a) *NATIONAL CHILD ABUSE AND NEGLECT DATA SYSTEM.*—The Secretary shall establish a national data collection and analysis program—

(1) *which, to the extent practicable, coordinates existing State child abuse and neglect reports and which shall include—*

(A) *standardized data on substantiated, as well as false, unfounded, or unsubstantiated reports; and*

(B) *information on the number of deaths due to child abuse and neglect; and*

(2) *which shall collect, compile, analyze, and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case-specific and integrated with other case-based foster care and adoption data collected by the Secretary.*

(b) *ADOPTION AND FOSTER CARE AND ANALYSIS AND REPORTING SYSTEMS.*—The Secretary shall implement a system for the collection of data relating to adoption and foster care in the United States. Such data collection system shall—

(1) *avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;*

(2) *assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;*

(3) *provide comprehensive national information with respect to—*

(A) *the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents;*

(B) *the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care);*

(C) *the number and characteristics of—*

(i) *children placed in or removed from foster care;*

(ii) *children adopted or with respect to whom adoptions have been terminated; and*

(iii) *children placed in foster care outside the State which has placement and care responsibility; and*

(D) *the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs*

*and the characteristics of the children with respect to whom such assistance is provided; and*

*(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.*

*(c) ADDITIONAL INFORMATION.—The Secretary may require the provision of additional information under the data collection system established under subsection (b) if the addition of such information is agreed to by a majority of the States.*

*(d) ANNUAL REPORT BY THE SECRETARY.—Within 6 months after the end of each fiscal year, the Secretary shall prepare a report based on information provided by the States for the fiscal year pursuant to this section, and shall make the report and such information available to the Congress and the public.*

## **TITLE II—RESEARCH, DEMONSTRATIONS, TRAINING, AND TECHNICAL ASSISTANCE**

### **SEC. 201. RESEARCH GRANTS.**

*(a) IN GENERAL.—The Secretary, in consultation with appropriate Federal officials and recognized experts in the field, shall award grants or contracts for the conduct of research in accordance with subsection (b).*

*(b) RESEARCH.—Research projects to be conducted using amounts received under this section—*

*(1) shall be designed to provide information to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of any such research conducted under a project being field initiated;*

*(2) shall at a minimum, focus on—*

*(A) the nature and scope of child abuse and neglect;*

*(B) the causes, prevention, assessment, identification, treatment, cultural and socioeconomic distinctions, and the consequences of child abuse and neglect;*

*(C) appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse; and*

*(D) the national incidence of child abuse and neglect, including—*

*(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;*

*(ii) the incidence of substantiated and unsubstantiated reported child abuse cases;*

*(iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;*

*(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;*

(v) the extent to which the lack of adequate resources and the lack of adequate training of reporters have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;

(vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;

(vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;

(viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care;

(ix) the incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system; and

(x) the cases of children reunited with their families or receiving family preservation services that result in subsequent substantiated reports of child abuse and neglect, including the death of the child; and

(3) may include the appointment of an advisory board to—

(A) provide recommendations on coordinating Federal, State, and local child abuse and neglect activities at the State level with similar activities at the State and local level pertaining to family violence prevention;

(B) consider specific modifications needed in State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of abuse or neglect which place a child in danger; and

(C) provide recommendations for modifications needed to facilitate coordinated national and Statewide data collection with respect to child protection and child welfare.

**SEC. 202. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.**

(a) **ESTABLISHMENT.**—The Secretary shall, through the Department of Health and Human Services, or by one or more contracts of not less than 3 years duration provided through a competition, establish a national clearinghouse for information relating to child abuse.

(b) **FUNCTIONS.**—The Secretary shall, through the clearinghouse established by subsection (a)—

(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect;

(2) maintain and disseminate information relating to—

(A) the incidence of cases of child abuse and neglect in the United States;

(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child



*Abuse Prevention, Adoption, and Family Services Act of 1988 (as such section was in effect on the day before the date of enactment of this Act); and*

*(C) the incidence of any such cases related to alcohol or drug abuse;*

*(3) disseminate information related to data collected and reported by States pursuant to section 103;*

*(4) compile, analyze, and publish a summary of the research conducted under section 201; and*

*(5) solicit public comment on the components of such clearinghouse.*

**SEC. 203. GRANTS FOR DEMONSTRATION PROJECTS.**

*(a) AWARDING OF GENERAL GRANTS.—The Secretary may make grants to, and enter into contracts with, public and nonprofit private agencies or organizations (or combinations of such agencies or organizations) for the purpose of developing, implementing, and operating time limited, demonstration programs and projects for the following purposes:*

*(1) INNOVATIVE PROGRAMS AND PROJECTS.—The Secretary may award grants to public agencies that demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective service agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that—*

*(A) accepts, screens and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program or project;*

*(B) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and*

*(C) provides further investigation and intensive intervention where the child's safety is in jeopardy.*

*(2) KINSHIP CARE PROGRAMS AND PROJECTS.—The Secretary may award grants to public entities to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where, to the maximum extent practicable, such relatives comply with relevant State child protection standards.*

*(3) ADOPTION OPPORTUNITIES.—The Secretary may award grants to public entities to assist such entities in developing or implementing programs to expand opportunities for the adoption of children with special needs.*

*(4) FAMILY RESOURCE CENTERS.—The Secretary may award grants to public or nonprofit private entities to provide for the establishment of family resource programs and support services that—*

*(A) develop, expand, and enhance statewide networks of community-based, prevention-focused centers, programs, or services that provide comprehensive support for families;*

(B) promote the development of parental competencies and capacities in order to increase family stability;

(C) support the additional needs of families with children with disabilities;

(D) foster the development of a continuum of preventive services for children and families through State and community-based collaborations and partnerships (both public and private); and

(E) maximize funding for the financing, planning, community mobilization, collaboration, assessment, information and referral, startup, training and technical assistance, information management, reporting, and evaluation costs for establishing, operating, or expanding a statewide network of community-based, prevention-focused family resource and support services.

(5) **OTHER INNOVATIVE PROGRAMS.**—The Secretary may award grants to public or private nonprofit organizations to assist such entities in developing or implementing innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect (such as Parents Anonymous).

(b) **GRANTS FOR ABANDONED INFANT PROGRAMS.**—The Secretary may award grants to public and nonprofit private entities to assist such entities in developing or implementing procedures—

(1) to prevent the abandonment of infants and young children, including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child;

(2) to identify and address the needs of abandoned infants and young children;

(3) to assist abandoned infants and young children to reside with their natural families or in foster care, as appropriate;

(4) to recruit, train, and retain foster families for abandoned infants and young children;

(5) to carry out residential care programs for abandoned infants and young children who are unable to reside with their families or to be placed in foster care;

(6) to carry out programs of respite care for families and foster families of infants and young children; and

(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children.

(c) **EVALUATION.**—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

#### **SEC. 204. TECHNICAL ASSISTANCE.**

(a) **CHILD ABUSE AND NEGLECT.**—

(1) **IN GENERAL.**—The Secretary shall provide technical assistance under this title to States to assist such States in plan-

ning, improving, developing, and carrying out programs and activities relating to the prevention, assessment identification, and treatment of child abuse and neglect.

(2) *EVALUATION.*—Technical assistance provided under paragraph (1) may include an evaluation or identification of—

(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

(B) ways to mitigate psychological trauma to the child victim; and

(C) effective programs carried out by the States under this Act.

(b) *ADOPTION OPPORTUNITIES.*—The Secretary shall provide, directly or by grant to or contract with public or private nonprofit agencies or organizations—

(1) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

(2) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.

#### **SEC. 205. TRAINING RESOURCES.**

(a) *TRAINING PROGRAMS.*—The Secretary may award grants to public or private nonprofit organizations—

(1) for the training of professional and paraprofessional personnel in the fields of medicine, law, education, law enforcement, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse;

(2) to provide culturally specific instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with disabilities; and

(3) to improve the recruitment, selection, and training of volunteers serving in private and public nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally.

(b) *DISSEMINATION OF INFORMATION.*—The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—

(1) individuals who are engaged, or who intend to engage, in the prevention, identification, assessment, and treatment of child abuse and neglect; and

(2) appropriate State and local officials, including prosecutors, to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel in appropriate methods of interacting during investigative, admin-

*istrative, and judicial proceedings with children who have been subjected to abuse.*

**SEC. 206. APPLICATIONS AND AMOUNTS OF GRANTS.**

*(a) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant to a State or other entity under this title unless—*

*(1) an application for the grant is submitted to the Secretary;*

*(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and*

*(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.*

*(b) AMOUNT OF GRANT.—The Secretary shall determine the amount of a grant to be awarded under this title.*

**SEC. 207. PEER REVIEW FOR GRANTS.**

*(a) ESTABLISHMENT OF PEER REVIEW PROCESS.—*

*(1) IN GENERAL.—The Secretary shall, in consultation with experts in the field and other Federal agencies, establish a formal, rigorous, and meritorious peer review process for purposes of evaluating and reviewing applications for grants under this title and determining the relative merits of the projects for which such assistance is requested. The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect.*

*(2) REQUIREMENTS FOR MEMBERS.—In establishing the process required by paragraph (1), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Administration for Children and Families. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this title, but may not meet less than once a year. The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.*

*(b) REVIEW OF APPLICATIONS FOR ASSISTANCE.—Each peer review panel established under subsection (a)(1) that reviews any application for a grant shall—*

*(1) determine and evaluate the merit of each project described in such application;*

*(2) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and*

*(3) make recommendations to the Secretary concerning whether the application for the project shall be approved.*

*The Secretary shall award grants under this title on the basis of competitive review.*

*(c) NOTICE OF APPROVAL.—*

(1) *IN GENERAL.*—The Secretary shall provide grants under this title from among the projects which the peer review panels established under subsection (a)(1) have determined to have merit.

(2) *REQUIREMENT OF EXPLANATION.*—In the instance in which the Secretary approves an application for a program under this title without having approved all applications ranked above such application, the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit.

**SEC. 208. NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE.**

(a) *IN GENERAL.*—The Secretary shall conduct a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected, and such other research as may be necessary.

(b) *REQUIREMENTS.*—The study required by subsection (a) shall—

(1) have a longitudinal component; and

(2) yield data reliable at the State level for as many States as the Secretary determines is feasible.

(c) *PREFERRED CONTENTS.*—In conducting the study required by subsection (a), the Secretary should—

(1) collect data on the child protection programs of different small States (or different groups of such States) in different years to yield an occasional picture of the child protection programs of such States;

(2) carefully consider selecting the sample from cases of confirmed abuse or neglect; and

(3) follow each case for several years while obtaining information on, among other things—

(A) the type of abuse or neglect involved;

(B) the frequency of contact with State or local agencies;

(C) whether the child involved has been separated from the family, and, if so, under what circumstances;

(D) the number, type, and characteristics of out-of-home placements of the child; and

(E) the average duration of each placement.

(d) *REPORTS.*—

(1) *IN GENERAL.*—From time to time, the Secretary shall prepare reports summarizing the results of the study required by subsection (a).

(2) *AVAILABILITY.*—The Secretary shall make available to the public any report prepared under paragraph (1), in writing or in the form of an electronic data tape.

(3) *AUTHORITY TO CHARGE FEE.*—The Secretary may charge and collect a fee for the furnishing of reports under paragraph (2).

(4) *FUNDING.*—The Secretary shall carry out this section using amounts made available under section 425 of the Social Security Act.

### **TITLE III—GENERAL PROVISIONS**

#### **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

(a) *TITLE I.*—There are authorized to be appropriated to carry out title I, \$230,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2002.

(b) *TITLE II.*—

(1) *IN GENERAL.*—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall make available 12 percent of such amount to carry out title II (except for sections 203 and 208).

(2) *GRANTS FOR DEMONSTRATION PROJECTS.*—Of the amount made available under paragraph (1) for a fiscal year, the Secretary shall make available not less than 40 percent of such amount to carry out section 203.

(c) *INDIAN TRIBES.*—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall make available 1 percent of such amount to provide grants and contracts to Indian tribes and Tribal Organizations.

(d) *AVAILABILITY OF APPROPRIATIONS.*—Amounts appropriated under subsection (a) shall remain available until expended.

#### **SEC. 302. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.**

(a) *GRANTS TO STATES.*—The Secretary, in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

(2) the handling of cases of suspected child abuse or neglect related fatalities; and

(3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.

(b) *ELIGIBILITY REQUIREMENTS.*—In order for a State to qualify for assistance under this section, such State shall—

(1) be an eligible State under section 102;

(2) establish a task force as provided in subsection (c);

(3) fulfill the requirements of subsection (d);

(4) submit annually an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

(A) make such reports to the Secretary as may reasonably be required; and

(B) maintain and provide access to records relating to activities under subsection (a); and

(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a).

(c) *STATE TASK FORCES.*—

(1) *GENERAL RULE.*—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate, and maintain, a State multidisciplinary task force on children's justice (hereafter in this section referred to as "State task force") composed of professionals with knowledge and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities. The State task force shall include—

(A) individuals representing the law enforcement community;

(B) judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);

(C) child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;

(D) health and mental health professionals;

(E) individuals representing child protective service agencies;

(F) individuals experienced in working with children with disabilities;

(G) parents; and

(H) representatives of parents' groups.

(2) *EXISTING TASK FORCE.*—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

(d) *STATE TASK FORCE STUDY.*—Before a State receives assistance under this section, and at 3-year intervals thereafter, the State task force shall comprehensively—

(1) review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal; and

(2) make policy and training recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

(e) *ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.*—

(1) *GENERAL RULE.*—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

(A) investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases in-

*volving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family and which also ensures procedural fairness to the accused;*

*(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children; and*

*(C) reform of State laws, ordinances, regulations, protocols and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.*

*(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—*

*(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or*

*(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.*

*(f) FUNDS AVAILABLE.—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.*

#### **SEC. 303. TRANSITIONAL PROVISION.**

*A State or other entity that has a grant, contract, or cooperative agreement in effect, on the date of enactment of this Act, under the Family Resource and Support Program, the Community-Based Family Resource Program, the Family Support Center Program, the Emergency Child Abuse Prevention Grant Program, or the Temporary Child Care for Children with Disabilities and Crisis Nurseries Programs shall continue to receive funds under such grant, contract, or cooperative agreement, subject to the original terms under which such funds were provided, through the end of the applicable grant, contract, or agreement cycle.*

#### **SEC. 304. RULE OF CONSTRUCTION.**

*(a) IN GENERAL.—Nothing in this Act, or in part B or E of title IV of the Social Security Act, shall be construed—*

*(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment against the religious beliefs of the parent or legal guardian; and*

*(2) to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather*



*than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.*

*(b) STATE REQUIREMENT.—Notwithstanding subsection (a), a State shall have in place authority under State law to permit the child protective service system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.*

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## **SECTION 408 OF THE MISSING CHILDREN'S ASSISTANCE ACT**

### **AUTHORIZATION OF APPROPRIATIONS**

SEC. 408. **[To]** *(a) IN GENERAL.—To carry out the provisions of this title, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993, 1994, 1995, [and 1996] 1996, and 1997.*

*(b) EVALUATION.—The Administrator shall use not more than 5 percent of the amount appropriated for a fiscal year under subsection (a) to conduct an evaluation of the effectiveness of the programs and activities established and operated under this title.*

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## **SECTION 214B OF THE VICTIMS OF CHILD ABUSE ACT OF 1990**

### **SEC. 214B. AUTHORIZATION OF APPROPRIATIONS.**

(a) SECTIONS 213 AND 214.—There are authorized to be appropriated to carry out sections 213 and 214—

(1) \$15,000,000 for fiscal year 1993; and

(2) such sums as are necessary for fiscal years 1994, 1995, [and 1996] 1996, and 1997.

(b) SECTION 214A.—There are authorized to be appropriated to carry out section 214A—

(1) \$5,000,000 for fiscal year 1993; and

(2) such sums as are necessary for fiscal years 1994, 1995, [and 1996] 1996, and 1997.

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## **CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978**

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## [TITLE II—ADOPTION OPPORTUNITIES

### [SEC. 201. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

[(a) FINDINGS.—Congress finds that—

[(1) the number of children in substitute care increased by nearly 50 percent between 1985 and 1990, as our Nation's foster care population included more than 400,000 children at the end of June, 1990;

[(2) increasingly children entering foster care have complex problems which require intensive services;

[(3) an increasing number of infants are born to mothers who did not receive prenatal care, are born addicted to alcohol and other drugs, and exposed to infection with the etiologic agent for the human immunodeficiency virus, are medically fragile, and technology dependent;

[(4) the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and some such children are in need of placement in permanent, adoptive homes;

[(5) many thousands of children remain in institutions or foster homes solely because of local and other barriers to their placement in permanent, adoptive homes;

[(6) the majority of such children are of school age, members of sibling groups or disabled;

[(7) currently one-half of children free for adoption and awaiting placement are minorities;

[(8) adoption may be the best alternative for assuring the healthy development of such children;

[(9) there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and

[(10) in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not have medically indicated treatment withheld from them nor be maintained in foster care or institutions when adoption is appropriate and families can be found for such children.

[(b) PURPOSE.—It is the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs, including disabled infants with life-threatening conditions, by—

[(1) promoting model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

[(2) providing a mechanism for the Department of Health and Human Services to—

[(A) promote quality standards for adoption services, pre-placement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

[(B) maintain a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive par-

ents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and

[(C) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan.

#### [(INFORMATION AND SERVICES

[SEC. 203. (a) The Secretary shall establish in the Department of Health and Human Services an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. The Secretary shall make available such consultant services, on-site technical assistance and personnel, together with appropriate administrative expenses, including salaries and travel costs, as are necessary for carrying out such purposes, including services to facilitate the adoption of children with special needs and particularly of disabled infants with life-threatening conditions and services to couples considering adoption of children with special needs. The Secretary shall, not later than 12 months after the date of enactment of this sentence, prepare and submit to the committees of Congress having jurisdiction over such services reports, as appropriate, containing appropriate data concerning the manner in which activities were carried out under this title, and such reports shall be made available to the public.

[(b) In connection with carrying out the provisions of this title, the Secretary shall—

[(1) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

[(2) conduct, directly or by grant or contract with public or private nonprofit organizations, ongoing, extensive recruitment efforts on a national level, develop national public awareness efforts to unite children in need of adoption with appropriate adoptive parents, and establish a coordinated referral system of recruited families with appropriate State or regional adoption resources to ensure that families are served in a timely fashion;

[(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of chil-

dren awaiting adoption); and (B) the coordination of such system with similar State and regional systems;

[(4) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including adoptive family groups and minority groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption, and to promote professional leadership training of minorities in the adoption field;

[(5) encourage involvement of corporations and small businesses in supporting adoption as a positive family-strengthening option, including the establishment of adoption benefit programs for employees who adopt children;

[(6) continue to study the nature, scope, and effects of the placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity;

[(7) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of all programs within the Department of Health and Human Services relating to adoption;

[(8) maintain (directly or by grant to or contract with public or private nonprofit agencies or organizations) a National Resource Center for Special Needs Adoption to—

[(A) promote professional leadership development of minorities in the adoption field;

[(B) provide training and technical assistance to service providers and State agencies to improve professional competency in the field of adoption and the adoption of children with special needs; and

[(C) facilitate the development of interdisciplinary approaches to meet the needs of children who are waiting for adoption and the needs of adoptive families; and

[(9) provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience in working with minority populations) for the provision of programs aimed at increasing the number of minority children (who are in foster care and have the goal of adoption) placed in adoptive families, with a special emphasis on recruitment of minority families—

[(A) which may include such activities as—

[(i) outreach, public education, or media campaigns to inform the public of the needs and numbers of such children;

[(ii) recruitment of prospective adoptive families for such children;

[(iii) expediting, where appropriate, the legal availability of such children;

[(iv) expediting, where appropriate, the agency assessment of prospective adoptive families identified for such children;

[(v) formation of prospective adoptive family support groups;

[(vi) training of personnel of—

[(I) public agencies;

[(II) private nonprofit child welfare and adoption agencies that are licensed by the State; and

[(III) adoptive parents organizations and community-based organizations with experience in working with minority populations;

[(vii) use of volunteers and adoptive parent groups; and

[(viii) any other activities determined by the Secretary to further the purposes of this Act; and

[(B) shall be subject to the condition that such grants or contracts may be renewed if documentation is provided to the Secretary demonstrating that appropriate and sufficient placements of such children have occurred during the previous funding period.

[(c)(1) The Secretary shall provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups) for the provision of post legal adoption services for families who have adopted special needs children.

[(2) Services provided under grants made under this subsection shall supplement, not supplant, services from any other funds available for the same general purposes, including—

[(A) individual counseling;

[(B) group counseling;

[(C) family counseling;

[(D) case management;

[(E) training public agency adoption personnel, personnel of private, nonprofit child welfare and adoption agencies licensed by the State to provide adoption services, mental health services professionals, and other support personnel to provide services under this subsection;

[(F) assistance to adoptive parent organizations; and

[(G) assistance to support groups for adoptive parents, adopted children, and siblings of adopted children.

[(d)(1) The Secretary shall make grants for improving State efforts to increase the placement of foster care children legally free for adoption, according to a pre-established plan and goals for improvement. Grants funded by this section must include a strong evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption, and the successes and failures of the initiative. The evaluations will be submitted to the Secretary who will compile the results of projects funded by this section and submit a report to the appropriate committees of Congress. The emphasis of this program must focus on the improvement of the placement rate—not the aggregate number of special needs children placed in permanent homes. The Secretary, when reviewing grant applications shall give

priority to grantees who propose improvements designed to continue in the absence of Federal funds.

[(2) Each State entering into an agreement under this subsection shall submit an application to the Secretary for each fiscal year in a form and manner determined to be appropriate by the Secretary. Each application shall include verification of the placements described in paragraph (1).

[(3)(A) Payments under this subsection shall begin during fiscal year 1989. Payments under this section during any fiscal year shall not exceed \$1,000,000. No payment may be made under this subsection unless an amount in excess of \$5,000,000 is appropriated for such fiscal year under section 205(a).

[(B) Any payment made to a State under this subsection which is not used by such State for the purpose provided in paragraph (1) during the fiscal year payment is made shall revert to the Secretary on October 1st of the next fiscal year and shall be used to carry out the purposes of this Act.

#### [STUDY OF UNLICENSED ADOPTION PLACEMENTS

[SEC. 204. The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after the date of enactment of this Act) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

#### [AUTHORIZATION OF APPROPRIATIONS

[SEC. 205.(a) There are authorized to be appropriated, \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out programs and activities under this Act except for programs and activities authorized under sections 203(b)(9) and 203(c)(1).

[(b) For any fiscal year in which appropriations under subsection (a) exceeds \$5,000,000, there are authorized to be appropriated \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 203(b)(9), and there are authorized to be appropriated \$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 203(c)(1).

[(c) The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.]

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**ABANDONED INFANTS ASSISTANCE ACT OF 1988**

AN ACT To authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. SHORT TITLE.**

**]**This Act may be cited as the “Abandoned Infants Assistance Act of 1988”.

**[SEC. 2. FINDINGS.**

**]**The Congress finds that—

**[(1)** throughout the Nation, the number of infants and young children who have been exposed to drugs taken by their mothers during pregnancy has increased dramatically;

**[(2)** the inability of parents who abuse drugs to provide adequate care for such infants and young children and a lack of suitable shelter homes for such infants and young children have led to the abandonment of such infants and young children in hospitals for extended periods;

**[(3)** an unacceptable number of these infants and young children will be medically cleared for discharge, yet remain in hospitals as boarder babies;

**[(4)** hospital-based child care for these infants and young children is extremely costly and deprives them of an adequate nurturing environment;

**[(5)** training is inadequate for foster care personnel working with medically fragile infants and young children and infants and young children exposed to drugs;

**[(6)** a particularly devastating development is the increase in the number of infants and young children who are infected with the human immunodeficiency virus (which is believed to cause acquired immune deficiency syndrome and which is commonly known as HIV) or who have been perinatally exposed to the virus or to a dangerous drug;

**[(7)** many such infants and young children have at least one parent who is an intravenous drug abuser;

**[(8)** such infants and young children are particularly difficult to place in foster homes, and are being abandoned in hospitals in increasing numbers by mothers dying of acquired immune deficiency syndrome, or by parents incapable of providing adequate care;

**[(9)** there is a need for comprehensive services for such infants and young children, including foster family care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services;

**[(10)** there is a need to support the families of such infants and young children through the provision of services that will prevent the abandonment of the infants and children; and

**[(11)** there is a need for the development of funding strategies that coordinate and make the optimal use of all private re-

sources, and Federal, State, and local resources, to establish and maintain such services.

## **[TITLE I—PROJECTS REGARDING ABANDONMENT OF INFANTS AND YOUNG CHILDREN IN HOSPITALS**

### **[SEC. 101. ESTABLISHMENT OF PROGRAM OF DEMONSTRATION PROJECTS.**

[(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to public and nonprofit private entities for the purpose of developing, implementing, and operating projects to demonstrate methods—

[(1) to prevent the abandonment of infants and young children, including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child;

[(2) to identify and address the needs of abandoned infants and young children;

[(3) to assist abandoned infants and young children to reside with their natural families or in foster care, as appropriate;

[(4) to recruit, train, and retain foster families for abandoned infants and young children;

[(5) to carry out residential care programs for abandoned infants and young children who are unable to reside with their families or to be placed in foster care;

[(6) to carry out programs of respite care for families and foster families of infants and young children described in subsection (b);

[(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children; and

[(8) to prevent the abandonment of infants and young children, and to care for the infants and young children who have been abandoned, through model programs providing health, educational, and social services at a single site in a geographic area in which a significant number of infants and young children described in subsection (b) reside (with special consideration given to applications from entities that will provide the services of the project through community-based organizations).

[(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in carrying out the purpose described in subsection (a) (other than with respect to paragraph (6) of such subsection), the applicant will give priority to abandoned infants and young children—

[(1) who are infected with the human immunodeficiency virus or who have been perinatally exposed to the virus; or

[(2) who have been perinatally exposed to a dangerous drug.



[(c) CASE PLAN WITH RESPECT TO FOSTER CARE.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant expends the grant to carry out any program of providing care to infants and young children in foster homes or in other nonmedical residential settings away from their parents, the applicant will ensure that—

[(1) a case plan of the type described in paragraph (1) of section 475 of the Social Security Act is developed for each such infant and young child (to the extent that such infant and young child is not otherwise covered by such a plan); and

[(2) the program includes a case review system of the type described in paragraph (5) of such section (covering each such infant and young child who is not otherwise subject to such a system).

[(d) ADMINISTRATION OF GRANT.—

[(1) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees—

[(A) to use the funds provided under this section only for the purposes specified in the application submitted to, and approved by, the Secretary pursuant to subsection (e);

[(B) to establish such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement and accounting of Federal funds paid to the applicant under this section;

[(C) to report to the Secretary annually on the utilization, cost, and outcome of activities conducted, and services furnished, under this section; and

[(D) that if, during the majority of the 180-day period preceding the date of the enactment of this Act, the applicant has carried out any program with respect to the care of abandoned infants and young children, the applicant will expend the grant only for the purpose of significantly expanding, in accordance with subsection (a), activities under such program above the level provided under such program during the majority of such period.

[(2) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a grant under subsection (a) shall be for a period of 3 years, except that the Secretary—

[(A) may terminate the grant if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the grant; and

[(B) shall continue the grant for one additional year if the Secretary determines that the entity has satisfactorily complied with such agreements.

[(e) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

[(1) an application for the grant is submitted to the Secretary;

[(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

[(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

[(f) TECHNICAL ASSISTANCE TO GRANTEEES.—The Secretary may, without charge to any grantee under subsection (a), provide technical assistance (including training) with respect to the planning, development, and operation of projects described in such subsection. The Secretary may provide such technical assistance directly, through contracts, or through grants.

[(g) TECHNICAL ASSISTANCE WITH RESPECT TO PROCESS OF APPLYING FOR GRANT.—The Secretary may provide technical assistance (including training) to public and nonprofit private entities with respect to the process of applying to the Secretary for a grant under subsection (a). The Secretary may provide such technical assistance directly, through contracts, or through grants.

**[SEC. 102. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.]**

[(a) EVALUATIONS OF DEMONSTRATION PROJECTS.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as result of such projects.

[(b) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—

[(1)(A) The Secretary may enter into contracts or cooperative agreements with public or nonprofit private entities for the development and operation of model projects to disseminate the information described in subparagraph (B) to individuals who are disproportionately at risk of dysfunctional behaviors that lead to the abandonment of infants or young children.

[(B) The information referred to in subparagraph (A) is information on the availability to individuals described in such subparagraph, and the families of the individuals, of financial assistance and services under Federal, State, local, and private programs providing health services, mental health services, educational services, housing services, social services, or other appropriate services.

[(2) The Secretary may not provide a contract or cooperative agreement under paragraph (1) to an entity unless—

[(A) the entity has demonstrated expertise in the functions with respect to which such financial assistance is to be provided; and

[(B) the entity agrees that in disseminating information on programs described in such paragraph, the entity will give priority—

[(i) to providing the information to individuals described in such paragraph who—

[(I) engage in the abuse of alcohol or drugs, who are infected with the human immunodeficiency virus, or who have limited proficiency in speaking the English language; or

[(II) have been historically underserved in the provision of the information; and

[(ii) to providing information on programs that are operated in the geographic area in which the individuals involved reside and that will assist in eliminating or reducing the extent of behaviors described in such paragraph.

[(3) In providing contracts and cooperative agreements under paragraph (1), the Secretary may not provide more than 1 such contract or agreement with respect to any geographic area.

[(4) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a contract or cooperative agreement under paragraph (1) shall be for a period of 3 years, except that the Secretary may terminate such financial assistance if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the assistance.

**[(c) STUDY AND REPORT ON NUMBER OF ABANDONED INFANTS AND YOUNG CHILDREN.—**

[(1) The Secretary shall conduct a study for the purpose of determining—

[(A) an estimate of the number of infants and young children abandoned in hospitals in the United States and the number of such infants and young children who are infants and young children described in section 101(b); and

[(B) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for such infants and young children.

[(2) Not later than April 1, 1992, the Secretary shall complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

**[(d) STUDY AND REPORT ON EFFECTIVE CARE METHODS.—**

[(1) The Secretary shall conduct a study for the purpose of determining the most effective methods for responding to the needs of abandoned infants and young children.

[(2) The Secretary shall, not later than April 1, 1991, complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

**[SEC. 103. DEFINITIONS.**

**[For purposes of this title:**

[(1) The terms “abandoned” and “abandonment”, with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

[(2) The term “dangerous drug” means a controlled substance, as defined in section 102 of the Controlled Substances Act.

[(3) The term “natural family” shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals

residing in the household on a continuing basis who are in a care-giving situation with respect to infants and young children covered under this Act.

**[SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

**[(a) IN GENERAL.—**

**[(1)** For the purpose of carrying out this title (other than section 102(b)), there are authorized to be appropriated \$20,000,000 for fiscal year 1992, \$25,000,000 for fiscal year 1993, \$30,000,000 for fiscal year 1994, and \$35,000,000 for fiscal year 1995.

**[(2)(A)** Of the amounts appropriated under paragraph (1) for any fiscal year in excess of the amount appropriated under this subsection for fiscal year 1991, as adjusted in accordance with subparagraph (B), the Secretary shall make available not less than 50 percent for grants under section 101(a) to carry out projects described in paragraph (8) of such section.

**[(B)** For purposes of subparagraph (A), the amount relating to fiscal year 1991 shall be adjusted for a fiscal year to a greater amount to the extent necessary to reflect the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.

**[(3)** Not more than 5 percent of the amounts appropriate under paragraph (1) for any fiscal year may be obligated for carrying out section 102(a).

**[(b) DISSEMINATION OF INFORMATION FOR INDIVIDUALS WITH SPECIAL NEEDS.—**For the purpose of carrying out section 102(b), there is authorized to be appropriated \$5,000,000 for each of the fiscal years 1992 through 1995.

**[(c) ADMINISTRATIVE EXPENSES.—**

**[(1)** For the purpose of the administration of this title by the Secretary, there is authorized to be appropriated for each fiscal year specified in subsection (a)(1) an amount equal to 5 percent of the amount authorized in such subsection to be appropriated for the fiscal year. With respect to the amounts appropriated under such subsection, the preceding sentence may not be construed to prohibit the expenditure of the amounts for the purpose described in such sentence.

**[(2)** The Secretary may not obligate any of the amounts appropriated under paragraph (1) for a fiscal year unless, from the amounts appropriated under subsection (a)(1) for the fiscal year, the Secretary has obligated for the purpose described in such paragraph an amount equal to the amounts obligated by the Secretary for such purpose in fiscal year 1991.

**[(d) AVAILABILITY OF FUNDS.—**Amounts appropriated under this section shall remain available until expended.

## **[TITLE II—MEDICAL COSTS OF TREATMENT WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME**

### **[SEC. 201. STUDY AND REPORT ON ASSISTANCE.**

[(a) STUDY.—The Secretary shall conduct a study for the purpose of—

[(1) determining cost-effective methods for providing assistance to individuals for the medical costs of treatment of conditions arising from infection with the etiologic agent for acquired immune deficiency syndrome, including determining the feasibility of risk-pool health insurance for individuals at risk of such infection;

[(2) determining the extent to which Federal payments under title XIX of the Social Security Act are being expended for medical costs described in paragraph (1); and

[(3) providing an estimate of the extent to which such Federal payments will be expended for such medical costs during the 5-year period beginning on the date of the enactment of this Act.

[(b) REPORT.—The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

## **[TITLE III—GENERAL PROVISIONS**

### **[SEC. 301. DEFINITIONS.**

[For purposes of this Act:

[(1) The term “acquired immune deficiency syndrome” includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

[(2) The term “Secretary” means the Secretary of Health and Human Services.]

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## **TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES ACT OF 1986**

### **[TITLE II—TEMPORARY CHILD CARE FOR HANDICAPPED CHILDREN AND CRISIS NURSERIES**

#### **[SEC. 201 SHORT TITLE.**

[This title may be cited as the “Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986”.

**[SEC. 202. FINDINGS.**

【The Congress finds that it is necessary to establish demonstration programs of grants to the States to assist private and public agencies and organizations provide: (A) temporary non-medical child care for children with special needs to alleviate social, emotional, and financial stress among children and families of such children, and (B) crisis nurseries for children who are abused and neglected, at risk of abuse or neglect, or who are in families receiving child protective services.

**[SEC. 203. TEMPORARY CHILD CARE FOR HANDICAPPED AND CHRONICALLY ILL CHILDREN.**

【The Secretary of Health and Human Services shall establish a demonstration program of grants to States to assist private and public agencies and organizations to provide in-home or out-of-home temporary non-medical child care for children with disabilities, and children with chronic or terminal illnesses. Such care shall be provided on a sliding fee scale with hourly and daily rates.

**[SEC. 204. CRISIS NURSERIES.**

【The Secretary of Health and Human Services shall establish a demonstration program of grants to States to assist private and public agencies and organizations to provide crisis nurseries for children who are abused and neglected, are at high risk of abuse and neglect, or who are in families receiving child protective services. Such service shall be provided without fee for a maximum of 30 days in any year. Crisis nurseries shall also provide referral to support services.

**[SEC. 205. ADMINISTRATIVE PROVISIONS.****【(a) Applications.—**

【(1) (A) Any State which desires to receive a grant under section 203 or 204 shall submit an application to the Secretary in such form and at such times as the Secretary may require. Such application shall—

【(i) describe the proposed State program, including the services to be provided, the agencies and organizations that will provide the services, and the criteria for selection of children and families for participation in projects under the program;

【(ii) contain an estimate of the cost of developing, implementing, and evaluating the State program;

【(iii) set forth the plan for dissemination of the results of the projects;

【(iv) specify the State agency designated to administer programs and activities assisted under this title and the plans for coordinating interagency support of the program; and

【(v) with respect to State agencies described in subparagraph (B), provide documentation of a commitment by all such agencies to develop a State plan for coordination among the agencies in carrying out programs and activities provided by the State pursuant to a grant under section 203.

【(B) State agencies referred to in subparagraph (A)(v) are State agencies responsible for providing services to children

with disabilities or with chronic or terminal illnesses, or responsible for financing services for such children, or both, including State agencies responsible for carrying out State programs that—

[(i) receive Federal financial assistance; and

[(ii) relate to social services, maternal and child health, comprehensive health and mental health, medical assistance and infants, or toddlers and families.

[(2) Such application shall contain assurance that—

[(A) not more than 5 percent of funds made available under this title will be used for State administrative costs;

[(B) projects will be of sufficient size, scope, and quality to achieve the objectives of the program;

[(C) in the distribution of funds made available under section 203, a State will give priority consideration to agencies and organizations with experience in working with children with disabilities, with chronically ill children, and with the families of such children, and which serve communities with the greatest need for such services;

[(D) in the distribution of funds made available under section 204, the State will give priority consideration to agencies and organizations with experience in working with abused or neglected children and their families, and with children at high risk of abuse and neglect and their families, and which serve communities which demonstrate the greatest need for such services; and

[(E) Federal funds made available under this title will be so used as to supplement and, to the extent practicable, increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in this title, and in no case supplant such State or local funds.

[(b) Award of Grants.—

[(1) In reviewing applications for grants under this title, the Secretary shall consider, among other factors, the equitable geographical distribution of grants.

[(2) In the award of temporary non-medical child care demonstration grants under section 203, the Secretary shall give a preference to States in which such care is unavailable.

[(3) Of the funds appropriated under section 206, one-half shall be available for grants under section 203 and one-half shall be available for grants under section 204.

[(c) Evaluations.—States receiving grants under this title, shall annually submit a report to the Secretary evaluating funded programs. Such report shall include—

[(1)(A) information concerning costs, the number of participants, impact on family stability, the incidence of abuse and neglect, the types, amounts, and costs of various services provided, demographic data on recipients of services, and such other information as the Secretary may require; and

[(B) with respect to services provided by the States pursuant to section 203, information concerning the number of fami-

lies receiving services and documentation of parental satisfaction with the services provided;

[(2) a specification of the amount and source of public funds, and of private funds, expended in the State for temporary child care for children with disabilities or with chronic or terminal illnesses; and

[(3) a State strategy for expanding the availability in the State of temporary child care, and other family support, for families of children with disabilities or with chronic or terminal illnesses, which strategy specifies the manner in which the State intends to expend any Federal financial assistance available to the State for such purpose, including any such assistance provided to the State for programs described in section 205(a)(1)(B).

[(d) Definitions.—For the purposes of this title—

[(1) the term “Secretary” means the Secretary of Health and Human Services;

[(2) the term “children with disabilities” has the meaning given such term in section 602(a)(1) of the Individuals with Disabilities Education Act;

[(3) the term “crisis nursery” means a center providing temporary emergency services and care for children;

[(4) the term “non-medical child care” means the provision of care to provide temporary relief for the primary caregiver; and

[(5) the term “State” means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

#### **[SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

[(There are authorized to be appropriated for the purposes of this title such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989, \$20,000,000 for each of the fiscal years 1990 and 1991, and \$20,000,000 for each of the fiscal years 1992 through 1995. Amounts appropriated under the preceding sentence shall remain available until expended.

#### **[SEC. 207. EFFECTIVE DATE.**

[(This title shall take effect October 1, 1986.)]

### **SUBTITLE F OF TITLE VII OF THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT**

## **[Subtitle F—Family Support Centers**

#### **[SEC. 771. DEFINITIONS.**

[(As used in this subtitle:

[(1) **ADVISORY COUNCIL.**—The term “advisory council” means the advisory council established under section 772(e)(2)(K).



[(2) ELIGIBLE ENTITY.—The term “eligible entity” means State or local agencies, a Head Start agency, any community-based organization of demonstrated effectiveness as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, local education agencies, an institution of higher education, a public hospital, a community development corporation, a private industry council as defined under section 102(a) of the Job Training Partnership Act, a community health center, and any other public or private nonprofit agency or organization specializing in delivering social services.

[(3) FAMILY CASE MANAGERS.—The term “family case managers” means advisers operating under the provisions of section 774.

[(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term “governmentally subsidized housing” means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of very low income families or individuals.

[(5) HOMELESS.—The term “homeless” has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

[(6) INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.—The term “intensive and comprehensive supportive services” means—

[(A) in the case of services provided to infants, children and youth, such services that shall be designed to enhance the physical, social, and educational development of such infants and children and that shall include, where appropriate nutritional services, screening and referral services, child care services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness and job training services, education (including basic skills and literacy services), emergency services including special outreach services targeted to homeless and runaway youth, crisis intervention and counseling services, and such other services that the Secretary may deem necessary and appropriate;

[(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child’s healthy development and that shall include, where appropriate, substance abuse education, counseling, referral for treatment, crisis intervention, employment counseling and training as appropriate, life-skills training including personal financial counseling, education including basic skills and literacy services, parenting classes, training in consumer homemaking, and such other services as the Secretary shall deem necessary and appropriate;

[(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment, counseling and crisis intervention, family advocacy services, and housing assistance activities, housing counseling and eviction or foreclosure prevention assistance and referral to sources of emergency rental or mortgage assistance payments and home energy assistance, and other services as appropriate.

[(7) LOW INCOME.—The term “low income” when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

[(8) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

[(9) VERY LOW INCOME.—The term “very low income” when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

**[SEC. 772. GENERAL GRANTS FOR THE PROVISION OF SERVICES.**

[(a) AUTHORITY.—The Secretary is authorized to make not more than 30 grants to eligible entities in rural, urban and suburban areas to pay the cost of demonstration programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, and educational development of low-income individuals and families, especially those individuals in very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless. Such grants shall be of sufficient size, scope, and quality to be effective, and shall be distributed to various entities including those in or near public housing developments, and in low income areas both urban and nonurban.

[(b) GATEWAY PROGRAMS.—The Secretary shall make available not more than 5 demonstration grants in each fiscal year for Gateway programs in accordance with section 775.

[(c) AGREEMENTS WITH ELIGIBLE ENTITIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible entities to carry out the provisions of this section.

[(d) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

[(1) the capacity of the eligible entity to administer the comprehensive program for which assistance is sought;

[(2) the proximity of the entities and facilities associated with the program to the low-income families to be served by the program or the ability of the entity to provide mobile or off-site services;

[(3) the ability of the eligible entity to coordinate and integrate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, housing and energy assistance, and other relevant services), with public or private non-profit agencies and organizations that have a demonstrated record of effectiveness in providing assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

[(4) fiscal and administrative management of the eligible entity;

[(5) the involvement of project participants and community representatives in the planning and operation of the program to the extent practicable; and

[(6) the availability and proximity of comparable services provided by Community Action Agencies unless the Community Action Agency is the applicant and intends to expand existing services.

[(e) REQUIREMENTS.—

[(1) IN GENERAL.—Each eligible entity desiring to receive a grant under this section shall—

[(A) have demonstrated effectiveness in providing or arranging for the provision of services such as those required under this section;

[(B) to the maximum extent practicable, expand, coordinate, integrate, or contract with existing service providers, and avail itself of other resource and reimbursement mechanisms that may be used to provide services; and

[(C) submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

[(2) APPLICATION.—Each application submitted under paragraph (1)(C) shall—

[(A) identify the population and geographic location to be served by the program;

[(B) provide assurances that services are closely related to the identifiable needs of the target population;

[(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

[(D) identify the referral providers, agencies, and organizations that the program will use;

[(E) describe the method of furnishing services at off-site locations, if appropriate;

【(F) describe the manner in which the services offered will be accessed through existing program providers to the extent that they are located in the immediate vicinity of the target population, or will contract with such providers for community-based services within the community to be served, and that funds provided under this section will be utilized to create new services only to the extent that no other funds can be obtained to fulfill the purpose.

【(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, housing and energy assistance, and income maintenance services;

【(H) describe the collection and provision of data on groups of individuals and geographic areas to be served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and natures of conditions and needs to be identified and assisted, and such other information as the Secretary requires;

【(I) describe the manner in which the applicant will implement the requirement of section 773;

【(J) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible entity, consisting of not more than 15 members that shall include—

【(i) participants in the programs, including parents;

【(ii) representatives of local private industry;

【(iii) individuals with expertise in the services the program intends to offer;

【(iv) representatives of the community in which the program will be located;

【(v) representatives of local government social service providers;

【(vi) representatives of local law enforcement agencies;

【(vii) representatives of the local public housing agency, where appropriate; and

【(viii) representatives of local education providers;

【(K) describe plans for evaluating the impact of the program;

【(L) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

【(M) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

【(N) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds

currently utilized to provide services of the type described in this section.

**[(f) ADMINISTRATIVE PROVISIONS.—**

**[(1) ADMINISTRATIVE COSTS.—**Two percent of the amounts appropriated under this title may be used by the Secretary to administer the programs established under this title and three percent of the amounts appropriated under this title may be used by the Secretary to evaluate such programs and to provide technical assistance to entities for the development and submission of applications for grants under this section.

**[(2) LIMITATION.—**Not more than 30 grants may be made under this subtitle.

**[(3) AMOUNT OF GRANTS.—**No grant made under this subtitle may exceed \$2,500,000 per year nor more than a total of \$4,000,000 for 3 years. Funds received under such grants shall remain available until expended.

**[(4) MINIMUM AMOUNT.—**No grant made under subsection (a) may be awarded in an amount that is less than \$200,000 per year.

**[(g) FAMILY SUPPORT CENTERS.—**Each program that receives assistance under this section shall establish one or more family support centers that operate—

**[(1)** in or near the immediate vicinity of governmentally subsidized housing;

**[(2)** in urban poverty areas; or

**[(3)** in non-urban poverty areas.

Such centers shall be the primary location for the administration of the programs and the provision of services under this title.

**[SEC. 773. TRAINING AND RETENTION.**

**[The Secretary shall require that entities that receive a grant under section 772 use not more than 7 percent of such grant to improve the retention and effectiveness of staff and volunteers.**

**[SEC. 774. FAMILY CASE MANAGERS.**

**[(a) REQUIREMENT.—**Each entity that receives a grant under section 772 shall employ, subject to subsection (d), an appropriate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

**[(b) NEEDS ASSESSMENT.—**Each low-income family that desires to receive services from a program that receives assistance under this subtitle shall be assessed by a family case manager on such family's initial visit to such program as to their need for services.

**[(c) CONTINUING FUNCTIONS.—**Family case managers shall formulate a service plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and referral services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities, as appropriate.

**[(d) LIMITATION.—**Each family case manager shall have a caseload that is of a sufficiently small size so as to permit such manager to effectively manage the delivery of comprehensive services to those families assigned to such manager.

**[SEC. 775. GATEWAY PROGRAMS.**

[(a) IN GENERAL.—The Secretary shall use amounts made available in accordance with section 772(b) to make not more than 5 demonstration grants to local education agencies who, in consultation with the local public housing authority and private industry council, agree to provide on-site education, training and necessary support services to economically disadvantaged residents of public housing.

[(b) SELECTION OF GRANT RECIPIENTS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall select a local education agency to receive a grant under subsection (a) if such agency has cooperated with the local public housing authority in order to meet the following requirements:

[(1) The local education agency shall demonstrate to the Secretary that training and ancillary support services will be accessed through existing program providers to the extent that they are located in the immediate vicinity of the public housing development, or will contract with such providers for on-site service delivery, and that funds provided under this section will be utilized to purchase such services only to the extent that no other funds can be obtained to fulfill the purpose.

[(2) The public housing agency shall agree to make available suitable facilities in the public housing development for the provision of education, training and support services under this section.

[(3) The local education agency shall demonstrate that the recipients of service have been recruited with the assistance of the public housing authority and are eligible individuals in accordance with the priorities established in subsection (c).

[(4) The local education agency shall demonstrate the ability to coordinate the services provided in this section with other services provided, with the public housing development and private industry council as well as with other public and private agencies and community-based organizations of demonstrated effectiveness providing similar and ancillary services to the target population.

[(5) The local education agency shall demonstrate that they have, to the fullest extent practicable, attempted to employ residents of the public housing development to carry out the purposes of this section whenever qualified residents are available.

[(c) INDIVIDUALS ELIGIBLE FOR SERVICES.—Local education agencies receiving grants under this section shall target participation in the training and services provided under such grants to individuals who—

[(1) reside in public housing;

[(2) are economically disadvantaged; and

[(3) have encountered barriers to employment because of basic skills deficiency including not having a high school diploma, GED, or the equivalent.

[(d) PRIORITY.—Local education agencies providing services under this section shall give priority to single heads of households with young dependent children.

[(e) MANDATORY SERVICES.—Any local education agency that receives a grant under this section shall establish a Gateway program to provide—

[(1) outreach and information services designed to make eligible individuals aware of available services;

[(2) literacy and bilingual education services, where appropriate;

[(3) remedial education and basic skills training;

[(4) employment training and personal management skill development or referrals for such services; and

[(5) child care or dependent care for dependents of eligible individuals during those times, including afternoons and evenings, when training services are being provided.

To the extent practicable, child care or dependent care services shall be designed to employ public housing residents after appropriate training.

[(f) PERMISSIVE SERVICES.—Local education agencies receiving grants under this section may make available, as part of their Gateway programs—

[(1) pre-employment skills training;

[(2) employment counseling and application assistance;

[(3) job development services;

[(4) job training;

[(5) Federal employment-related activity services;

[(6) completion of high school or GED program services;

[(7) transitional assistance, including child care for up to 6 months to enable such individual to successfully secure unsubsidized employment;

[(8) substance abuse prevention and education; and

[(9) other support services that the Secretary deems to be appropriate.

#### **[SEC. 776. EVALUATION.**

[(a) IN GENERAL.—The Secretary shall contract for an independent evaluation of the programs and entities that receive assistance under this title. Such evaluation shall be complete not later than the date that is 15 months after the date on which the first grants are awarded under this title.

[(b) MATTER TO BE EVALUATED.—The evaluation conducted under subsection (a) shall examine the degree to which the programs receiving assistance under this title have fulfilled the objectives included in the application in accordance with section 722(e)(2) in—

[(1) enhancing the living conditions in low income housing and in neighborhoods;

[(2) improving the physical, social and educational development of low income children and families served by the program;

[(3) achieving progress towards increased potential for independence and self-sufficiency among families served by the program;

[(4) the degree to which the provision of services is affected by caseload size;

[(5) promoting increases in literacy levels and basic employment skills among residents of public housing developments served by grants under section 776; and

[(6) such other factors that the Secretary may reasonably require.

[(c) INFORMATION.—Each eligible entity receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

[(d) RESULTS.—The results of such evaluation shall be provided by the Secretary to the eligible entities conducting the programs to enable such entities to improve such programs.

**[SEC. 777. REPORT.]**

[Not later than July 1, 1995, the Secretary shall prepare and submit, to the Committee on Education and Labor, of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report—

[(1) concerning the evaluation required under section 776;

[(2) providing recommendations for replicating grant programs, including identifying the geographic and demographic characteristics of localities where this service coordination and delivery system may prove effective;

[(3) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle; and

[(4) describing the degree to which entities are coordinating with other existing programs.

**[SEC. 778. CONSTRUCTION.]**

[Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

**[SEC. 779. AUTHORIZATION OF APPROPRIATIONS.]**

[There are authorized to be appropriated to carry out this subtitle, \$50,000,000 for fiscal year 1991, \$55,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1998.]

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**CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT  
OF 1990**

**TITLE VI—HUMAN SERVICES PROGRAMS**

**Subtitle A—Authorizations Savings for Fiscal Years 1982, 1983,  
and 1984**

\* \* \* \* \*

**CHAPTER 8—COMMUNITY SERVICES PROGRAMS**

\* \* \* \* \*



### Subchapter C—Child Care and Development Block Grant

#### SEC. 658A. SHORT TITLE AND GOALS.

(a) *SHORT TITLE.*—This subchapter may be cited as the “Child Care and Development Block Grant Act of 1990”.

(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. 658B. AUTHORIZATION OF APPROPRIATIONS.

¶ There are authorized to be appropriated to carry out this subchapter, \$750,000,000 for fiscal year 1991, \$825,000,000 for fiscal year 1992, \$925,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.¶

#### 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.*

\* \* \* \* \*

#### SEC. 658D. LEAD AGENCY.

(a) *DESIGNATION.*—The chief executive officer of a State desiring to receive a grant under this subchapter shall designate, in an application submitted to the Secretary under section 658E, an appropriate State agency that complies with the requirements of subsection (b) to act as the lead agency.

(b) *DUTIES.*—

(1) *IN GENERAL.*—The lead agency shall—

(A) administer, directly or through other [State] governmental or nongovernmental agencies, the financial assistance received under this subchapter by the State;

(B) develop the State plan to be submitted to the Secretary under section 658E(a);

(C) in conjunction with the development of the State plan as required under subparagraph (B), hold at least one hearing in the State *with sufficient time and Statewide distribution of the notice of such hearing*, to provide to the public an opportunity to comment on the provision of child care services under the State plan; and

\* \* \* \* \*

(2) *DEVELOPMENT OF PLAN.*—In the development of the State plan described in paragraph (1)(B), the lead agency shall

consult with appropriate representatives of units of general purpose local government. [Such consultations may include consideration of local child care needs and resources, the effectiveness of existing child care and early childhood development services, and the methods by which funds made available under this subchapter can be used to effectively address local shortages.]

\* \* \* \* \*

**SEC. 658E. APPLICATION AND PLAN.**

(a) \* \* \*

(b) **PERIOD COVERED BY PLAN.**—The State plan contained in the application under subsection (a) shall be designed to be [implemented—

[(1) during a 3-year period for the initial State plan; and  
[(2)] *implemented* during a 2-year period [for subsequent State plans].

(c) **REQUIREMENTS OF A PLAN.**—

(1) **LEAD AGENCY.**—The State plan shall identify the lead agency designated under section 658D.

(2) **POLICIES AND PROCEDURES.**—The State plan shall:

(A) **PARENTAL CHOICE OF PROVIDERS.**—Provide assurances that—

(i) the parent or parents of each eligible child within the State who receives or is offered child care services for which financial assistance is provided under this subchapter[, other than through assistance provided under paragraph (3)(C),] are given the option either—

(I) \* \* \* \*

\* \* \* \* \*

[except that nothing in this subparagraph shall require a State to have a child care certificate program in operation prior to October 1, 1992] *and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph.*

(B) **UNLIMITED PARENTAL ACCESS.**—[Provide assurances] *Certify* that procedures are in effect within the State to ensure that child care providers who provide services for which assistance is made available under this subchapter afford parents unlimited access to their children and to the providers caring for their children, during the normal hours of operation of such providers and whenever such children are in the care of such providers *and provide a detailed description of such procedures.*

(C) **PARENTAL COMPLAINTS.**—[Provide assurances] *Certify* that the State maintains a record of substantiated parental complaints and makes information regarding such parental complaints available to the public on request *and provide a detailed description of how such record is maintained and is made available.*

[(D) **CONSUMER EDUCATION.**—Provide assurances that consumer education information will be made available to parents and the general public within the State concerning

licensing and regulatory requirements, complaint procedures, and policies and practices relative to child care services within the State.

[(E) COMPLIANCE WITH STATE AND LOCAL REGULATORY REQUIREMENTS.—Provide assurances that—

[(i) all providers of child care services within the State for which assistance is provided under this subchapter comply with all licensing or regulatory requirements (including registration requirements) applicable under State and local law; and

[(ii) providers within the State that are not required to be licensed or regulated under State or local law are required to be registered with the State prior to payment being made under this subchapter, in accordance with procedures designed to facilitate appropriate payment to such providers, and to permit the State to furnish information to such providers, including information on the availability of health and safety training, technical assistance, and any relevant information pertaining to regulatory requirements in the State, and that such providers shall be permitted to register with the State after selection by the parents of eligible children and before such payment is made.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards and licensing or regulatory requirements on child care providers within the State that provide services for which assistance is provided under this subchapter than the standards or requirements imposed on other child care providers in the State.]

(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.*

(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 organization receiving assistance under this subchapter.*

(G) COMPLIANCE WITH STATE AND LOCAL HEALTH AND SAFETY REQUIREMENTS.—[Provide assurances] *Certify* that procedures are in effect to ensure that child care providers within the State that provide services for which assistance is provided under this subchapter comply with all applicable State or local health and safety requirements as described in subparagraph (F).

[(H) REDUCTION IN STANDARDS.—Provide assurances that if the State reduces the level of standards applicable to child care services provided in the State on the date of enactment of this subchapter, the State shall inform the Secretary of the rationale for such reduction in the annual report of the State described in section 658K.

[(I) REVIEW OF STATE LICENSING AND REGULATORY REQUIREMENTS.—Provide assurances that not later than 18 months after the date of the submission of the application under section 658E, the State will complete a full review of the law applicable to, and the licensing and regulatory requirements and policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on the date of the enactment of this subchapter.

[(J) SUPPLEMENTATION.—Provide assurances that funds received under this subchapter by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for the support of child care services and related programs in the State.]

(H) 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.*

(3) USE OF BLOCK GRANT FUNDS.—

(A) GENERAL REQUIREMENT.—The State plan shall provide that the State will use the amounts provided to the State for each fiscal year under this subchapter as required under subparagraphs [(B) and (C)] *(B) through (D)*.

(B) CHILD CARE SERVICES[.—Subject to the reservation contained in subparagraph (C), the] *AND RELATED ACTIVITIES.—The State shall use amounts provided to the State for each fiscal year under this subchapter [for—*

*[(i) child care services, that meet the requirements of this subchapter, that are provided to eligible children in the State on a sliding fee scale basis using funding methods provided for in section 658E(c)(2)(A)] 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), with priority being given for services provided to children of families with very low family incomes (taking into consideration family size) and to children with special needs[; and].*

[(ii) activities designed to improve the availability and quality of child care.

[(C) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE AND TO INCREASE THE AVAILABILITY OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE SERVICES.—The State shall reserve 25 percent of the amounts provided to the State for each fiscal year under this subchapter to carry out activities designed to improve the quality of child care (as described in section 658G) and to provide before- and after-school and early childhood development services (as described in section 658H).]

(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.*

(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).*

(4) *PAYMENT RATES.*—

(A) *IN GENERAL.*—The State plan shall [provide assurances] *certify that payment rates for the provision of child care services for which assistance is provided under this subchapter are sufficient to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not eligible to receive assistance under this subchapter or for child care assistance under any other Federal or State programs and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access. [Such payment rates shall take into account the variations in the costs of providing child care in different settings and to children of different age groups, and the additional costs of providing child care for children with special needs.]*

\* \* \* \* \*

#### **SEC. 658F. LIMITATIONS ON STATE ALLOTMENTS.**

(a) \* \* \*

(b) *CONSTRUCTION OF FACILITIES.*—

(1) IN GENERAL.—~~【No】~~ *Except as provided for in section 658O(c)(6), no funds made available under this subchapter shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.*

\* \* \* \* \*

**[SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.**

**【A State that receives financial assistance under this subchapter shall use not less than 20 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year for one or more of the following:**

**【(1) RESOURCE AND REFERRAL PROGRAMS.—**Operating directly or providing financial assistance to private nonprofit organizations or public organizations (including units of general purpose local government) for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

**【(2) GRANTS OR LOANS TO ASSIST IN MEETING STATE AND LOCAL STANDARDS.—**Making grants or providing loans to child care providers to assist such providers in meeting applicable State and local child care standards.

**【(3) MONITORING OF COMPLIANCE WITH LICENSING AND REGULATORY REQUIREMENTS.—**Improving the monitoring of compliance with, and enforcement of, State and local licensing and regulatory requirements (including registration requirements).

**【(4) TRAINING.—**Providing training and technical assistance in areas appropriate to the provision of child care services, such as training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the care of children with special needs.

**【(5) COMPENSATION.—**Improving salaries and other compensation paid to full- and part-time staff who provide child care services for which assistance is provided under this subchapter.

**[SEC. 658H. EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL SERVICES.**

**【(a) IN GENERAL.—**A State that receives financial assistance under this subchapter shall use not less than 75 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year to establish or expand and conduct, through the provision of grants or contracts, early childhood development or before- and after-school child care programs, or both.

**【(b) PROGRAM DESCRIPTION.—**Programs that receive assistance under this section shall—

**【(1) in the case of early childhood development programs,** consist of services that are not intended to serve as a substitute for a compulsory academic programs but that are intended to provide an environment that enhances the educational, social, cultural, emotional, and recreational development of children; and

**【(2) in the case of before- and after-school child care programs—**

[(A) be provided Monday through Friday, including school holidays and vacation periods other than legal public holidays, to children attending early childhood development programs, kindergarten, or elementary or secondary school classes during such times of the day and on such days that regular instructional services are not in session; and

[(B) not be intended to extend or replace the regular academic program.

[(c) PRIORITY FOR ASSISTANCE.—In awarding grants and contracts under this section, the State shall give the highest priority to geographic areas within the State that are eligible to receive grants under section 1006 of the Elementary and Secondary Education Act of 1965, and shall then give priority to—

[(1) any other areas with concentrations of poverty; and

[(2) any areas with very high or very low population densities.]

**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. 658I. ADMINISTRATION AND ENFORCEMENT.**

(a) \* \* \*

(b) ENFORCEMENT.—

(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E(c) for the State[, and shall have the power to terminate payments to the State in accordance with paragraph (2)].

(2) NONCOMPLIANCE.—

(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under section 658E(c) for the State; or

(ii) in the operation of any program for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the [finding and that no further payments may be made to such State under this subchapter (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.] *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. 658J. PAYMENTS.**

(a) \* \* \*

\* \* \* \* \*

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 658O for any fiscal year may be [expended] *obligated* by the State in that fiscal year or in the succeeding 3 fiscal years.

**SEC. 658K. [ANNUAL REPORT] REPORTS AND AUDITS.**

[(a) ANNUAL REPORT.—Not later than December 31, 1992, and annually thereafter, a State that receives assistance under this subchapter shall prepare and submit to the Secretary a report—

[(1) specifying the uses for which the State expended funds specified under paragraph (3) of section 658E(c) and the amount of funds expended for such uses;

[(2) containing available data on the manner in which the child care needs of families in the State are being fulfilled, including information concerning—

[(A) the number of children being assisted with funds provided under this subchapter, and under other Federal child care and pre-school programs;

[(B) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

[(C) salaries and other compensation paid to full- and part-time staff who provide child care services; and

[(D) activities in the State to encourage public-private partnerships that promote business involvement in meeting child care needs;

[(3) describing the extent to which the affordability and availability of child care services has increased;

[(4) if applicable, describing, in either the first or second such report, the findings of the review of State licensing and regulatory requirements and policies described in section 658E(c), including a description of actions taken by the State in response to such reviews;

[(5) containing an explanation of any State action, in accordance with section 658E, to reduce the level of child care standards in the State, if applicable; and

[(6) describing the standards and health and safety requirements applicable to child care providers in the State, including a description of State efforts to improve the quality of child care;

during the period for which such report is required to be submitted.]

(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) BIENNIAL 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 ben-*

*efit 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.*

(b) AUDITS.—

(1) REQUIREMENT.—A State shall, after the close of each program period covered by [a] *an* application approved under section 658E(d) audit its expenditures during such program period from amounts received under this subchapter.

(2) INDEPENDENT AUDITOR.—Audits under this subsection shall be conducted by an entity that is independent of [any agency administering activities that receive] *the State that receives* assistance under this subchapter and be in accordance with generally accepted auditing principles.

(3) SUBMISSION.—Not later than 30 days after the completion of an audit under this subsection, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

(4) REPAYMENT OF AMOUNTS.—Each State shall repay to the United States any amounts determined through an audit under this subsection not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may be [entitled] *entitled* under this subchapter.

#### SEC. 658L. REPORT BY SECRETARY.

Not later than July 31, [1993] *1997*, and [annually] *biennially* thereafter, the Secretary shall prepare and submit to the Committee on [Education and Labor] *Economic and Educational Opportunities* of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains a summary and analysis of the data and information provided to the Secretary in the State reports submitted under section 658K. Such report shall include an assessment, and where appropriate, recommendations for the Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

\* \* \* \* \*

#### SEC. 658O. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND [POSSESSIONS] *POSSESSIONS*.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, *and* the Commonwealth of the Northern Mariana Islands[, and the Trust Territory of the Pacific Islands] to be allotted in accordance with their respective needs.

(2) INDIANS TRIBES.—The Secretary shall reserve not more than **[3]** 1 percent of the amount appropriated under section 658B in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

\* \* \* \* \*

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) \* \* \*

\* \* \* \* \*

(5) DUAL ELIGIBILITY OF INDIAN CHILDREN.—The awarding of a grant or contract under this section for programs or activities to be conducted in a State or States shall not affect the eligibility of any Indian child to receive services provided or to participate in programs and activities carried **[our]** out under a grant to the State or States under this subchapter.

(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.*

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) \* \* \*

\* \* \* \* \*

(4) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—*Any portion of a grant or contract made to an Indian tribe or tribal organi-*

*zation 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. 658P. DEFINITIONS.

As used in this subchapter:

(1) CAREGIVER.—The term “caregiver” means an individual who provides a service directly to an eligible child on a person-to-person basis.

(2) CHILD CARE CERTIFICATE.—The term “child care certificate” means a certificate (that may be a check or other disbursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services *or as a deposit for child care services if such a deposit is required of other children being cared for by the provider*. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

[(3) ELEMENTARY SCHOOL.—The term “elementary school” means a day or residential school that provides elementary education, as determined under State law.]

(4) ELIGIBLE CHILD.—The term “eligible child” means an individual—

(A) who is less than 13 years of age;

(B) whose family income does not exceed [75] 85 percent of the State median income for a family of the same size; and

\* \* \* \* \*

(5) ELIGIBLE CHILD CARE PROVIDER.—The term “eligible child care provider” means—

(A) \* \* \*

(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, *great grandchild*, *sibling (if such provider lives in a separate residence)*, niece, or nephew of such provider, if such provider [is registered and] complies with any [State] *applicable* requirements that govern child care provided by the relative involved.

\* \* \* \* \*

[(10) SECONDARY SCHOOL.—The term “secondary school” means a day or residential school which provides secondary education, as determined under State law.]

\* \* \* \* \*

(13) STATE.—The term “State” means any of the several States, the District of Columbia, the Virgin Islands of the Unit-

ed States, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands[, and the Trust Territory of the Pacific Islands].

(14) TRIBAL ORGANIZATION.—[The term]

(A) *IN GENERAL.*—*The term “tribal organization” has the meaning given it in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).*

(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.*

\* \* \* \* \*

## HUMAN SERVICES REAUTHORIZATION ACT OF 1986

\* \* \* \* \*

### [TITLE VI—CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE PROGRAM

#### [SEC. 601. SHORT TITLE.

[This title may be cited as the “Child Development Associate Scholarship Assistance Act of 1985”.

#### [SEC. 602. GRANTS AUTHORIZED.

[The Secretary is authorized to make a grant for any fiscal year to any State receiving a grant under title XX of the Social Security Act for such fiscal year to enable such State to award scholarships to eligible individuals within the State who are candidates for the Child Development Associate credential.

#### [SEC. 603. APPLICATIONS.

[(a) APPLICATION REQUIRED.—A State desiring to participate in the grant program established by this title shall submit an application to the Secretary in such form as the Secretary may require.

[(b) CONTENTS OF APPLICATIONS.—A State’s application shall contain appropriate assurances that—

[(1) scholarship assistance made available with funds provided under this title will be awarded—

[(A) only to eligible individuals;

[(B) on the basis of the financial need of such individuals; and

[(C) in amounts sufficient to cover the cost of application, assessment, and credentialing (including, at the option of the State, any training necessary for credentialing) for the Child Development Associate credential for such individuals;

[(2) not more than 35 percent of the funds received under this title by a State may be used to provide scholarship assist-

ance under paragraph (1) to cover the cost of training described in paragraph (1)(C); and

[(3) not more than 10 percent of the funds received by the State under this title will be used for the costs of administering the program established in such State to award such assistance.

[(c) **EQUITABLE DISTRIBUTION.**—In making grants under this title, the Secretary shall—

[(1) distribute such grants equitably among States; and

[(2) ensure that the needs of rural and urban areas are appropriately addressed.

**[SEC. 604. DEFINITIONS.**

[For purposes of this title—

[(1) the term “eligible individual” means a candidate for the Child Development Associate credential whose income does not exceed the 130 percent of the lower living standard income level, by more than 50 percent;

[(2) the term “lower living standard income level” means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor;

[(3) the term “Secretary” means the Secretary of Health and Human Services; and

[(4) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau.

**[SEC. 605. ADMINISTRATIVE PROVISIONS.**

[(a) **REPORTING.**—Each State receiving grants under this title shall annually submit to the Secretary information on the number of eligible individuals assisted under the grant program, and their positions and salaries before and after receiving the Child Development Associate credential.

[(b) **PAYMENTS.**—Payments pursuant to grants made under this title may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

**[SEC. 606. AUTHORIZATION OF APPROPRIATIONS.**

[There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1995.]

\* \* \* \* \*

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**OMNIBUS BUDGET RECONCILIATION ACT OF 1981**

\* \* \* \* \*

## TITLE VI—HUMAN SERVICES PROGRAMS

Subtitle A—Authorizations Savings for Fiscal Years 1982, 1983,  
and 1984

\* \* \* \* \*

## CHAPTER 8—COMMUNITY SERVICES PROGRAMS

\* \* \* \* \*

【Subchapter E—Grants to States for Planning and Development of  
Dependent Care Programs and for Other Purposes

## 【AUTHORIZATION OF APPROPRIATIONS

【SEC. 670A. For the purpose of making allotments to States to carry out the activities described in section 670D, there is authorized to be appropriated \$13,000,000 for fiscal year 1995.

## 【ALLOTMENTS

【SEC. 670B. (a) From the amounts appropriated under section 6701A for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated under such section for such fiscal year as the population of the State bears to the population of all States, except that no State may receive less than \$50,000 in each fiscal year.

【(b) For the purpose of the exception contained in subsection (a), the term “State” does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

## 【PAYMENTS UNDER ALLOTMENTS TO STATES

【SEC. 670C. The Secretary shall make payment, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under section 670B from amounts appropriated under section 670A.

## 【USE OF ALLOTMENTS

【SEC. 670D. (a)(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670C from its allotment under section 670B may be used for the planning, development, establishment, operation, expansion, or improvement by the States, directly or by grant or contract with public or private entities, of State and local resource and referral systems to provide information concerning the availability, types, costs, and locations of dependent care services. The information provided by any such system may include—

【(A) the types of dependent care services available, including services provided by individual homes, religious organizations, community organizations, employers, private industry, and public and private institutions;

【(B) the cost of available dependent care services;

【(C) the locations in which dependent care services are provided;

[(D) the forms of transportation available to such locations;

[(E) the hours during which such dependent care services are available;

[(F) the dependents eligible to enroll for such dependent care services; and

[(G) any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a State under this subchapter.

[(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

[(A) provide assurances that no information will be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided; and

[(B) provide assurances that the information provided will be the latest information available and will be kept up to date.

[(b)(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670C from its allotment under section 670B may be used for the planning, development, establishment, operation, expansion, or improvement by the States, directly, or by grant or contract, with public agencies or private nonprofit organizations of programs to furnish school-age child care services before and after school. Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.

[(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

[(A) provide assurances, in the case of an applicant that is not a State or local educational agency, that the applicant has or will enter into an agreement with the State or local educational agency, institution of higher education or community center containing provisions for—

[(i) the use of facilities for the provision of before or after school child care services (including such use during holidays and vacation periods),

[(ii) the restrictions, if any, on the use of such space, and

[(iii) the times when the space will be available for the use of the applicant;

[(B) provide an estimate of the costs of the establishment of the child care service program in the facilities;

[(C) provide assurances that the parents of school-age children will be involved in the development and implementation of the program for which assistance is sought under this Act;

[(D) provide assurances that the applicant is able and willing to seek to enroll racially, ethnically, and economically diverse school-age children, as well as handicapped school-age children, in the child care service program for which assistance is sought under this Act;

[(E) provide assurances that the child care program is in compliance with State and local child care licensing laws and regulations governing day care services for school-age children



to the extent that such regulations are appropriate to the age group served; and

[(F) provide such other assurance as the chief executive officer of the State may reasonably require to carry out this Act<sup>1</sup>.

[(c)(1) Except as provided in paragraph (2), of the allotment to each State in each fiscal year—

[(A) 40 percent shall be available for the activities described in subsection (a); and

[(B) 60 percent shall be available for the activities described in subsection (b).

[(2) For any fiscal year the Secretary may waive the percentage requirements specified in paragraph (1) on the request of a State if such State demonstrates to the satisfaction of the Secretary—

[(A) that the amount of funds available as a result of one of such percentage requirements is not needed in such fiscal year for the activities for which such amount is so made available; and

[(B) the adequacy of the alternative percentages, relative to need, the State specifies the State will apply with respect to all of the activities referred to in paragraph (1) if such waiver is granted.

[(d) A State may not use amounts paid to it under this subchapter to—

[(1) make cash payments to intended recipient of dependent care services including child care services;

[(2) pay for construction or renovation; or

[(3) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

[(e)(1) The Federal share of any project supported under this subchapter shall be not more than 75 percent.

[(2) Not more than 10 percent of the allotment of each State under this subchapter may be available for the cost of administration.

[(f) Project supported under this section to plan, develop, establish, expand, operate, or improve a State or local resource and referral system or before or after school child care program shall not duplicate any services which are provided before the date of the enactment of this subchapter, by the State or locality which will be served by such system.

[(g) The Secretary may provide technical assistance to States in planning and carrying out activities under this subchapter.

#### [(APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

[(SEC. 670E. (a)(1) In order to receive an allotment under section 670B, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

[(2) Each application required under paragraph (1) for an allotment under section 670B shall contain assurances that the State will meet the requirements of subsection (b).

[(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall—

[(1) certify that the State agrees to use the funds allotted to it under section 670B in accordance with the requirements of this subchapter; and

[(2) certify that the State agrees that Federal funds made available under section 670C for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds. The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

[(c)(1) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 670C, including information on the programs and activities to be supported. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) until September 30, 1991, as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

[(2) The chief executive officer of each State shall include in such a description of—

[(A) the number of children who participated in before and after school child care programs assisted under this subchapter;

[(B) the characteristics of the children so served including age levels, handicapped condition, income level of families in such programs;

[(C) the salary level and benefits paid to employees in such child care programs; and

[(D) the number of clients served in resource and referral systems assisted under this subchapter, and the types of assistance they requested.

[(d) Except where inconsistent with the provisions of this subchapter, the provisions of section 1903(b), paragraphs (1) through (5) of section 1906(a), and sections 1906(b), 1907, 1908, and 1909 of the Public Health Service Act shall apply to this subchapter in the same manner as such provisions apply to part A of title XIX of such Act.

#### REPORT

[SEC. 670F. Within three years after the date of enactment of this subchapter, the Secretary shall prepare and transmit to the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor a report concerning the activities conducted by the States with amounts provided under this subchapter.

**【DEFINITIONS**

**【SEC. 670G.** For purposes of this subchapter—

**【(1)** the term “community center” means facilities operated by nonprofit community-based organizations for the provision of recreational, social, or educational services to the general public;

**【(2)** the term “dependent” means—

**【(A)** an individual who has not attained the age of 17 years;

**【(B)** an individual who has attained the age of 55 years; or

**【(C)** an individual with a developmental disability;

**【(3)** the term “developmental disability” has the same meaning as in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act;

**【(4)** the term “equipment” has the same meaning given that term by section 198(a)(8) of the Elementary and Secondary Education Act of 1965;

**【(5)** the term “institution of higher education” has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

**【(6)** the term “local educational agency” has the same meaning given that term under section 14101 of the Elementary and Secondary Education Act of 1965 of the Elementary and Secondary Education Act of 1965;

**【(7)** the term “school-age children” means children aged five through thirteen, except that in any State in which by State law children at an earlier age are provided free public education, the age provided in State law shall be substituted for age five;

**【(8)** the term “school facilities” means classrooms and related facilities used for the provision of education;

**【(9)** the term “Secretary” means the Secretary of Health and Human Services;

**【(10)** the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, and the Commonwealth of the Northern Mariana Islands; and

**【(11)** the term “State educational agency” has the meaning given that term under section 14101 of the Elementary and Secondary Education Act of 1965.

**【SHORT TITLE**

**【SEC. 670H.** This subchapter may be cited as the “State Dependent Care Development Grants Act”.**】**

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## SECTION 9205 OF THE NATIVE HAWAIIAN EDUCATION ACT

### [(SEC. 9205. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.

[(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to expand the operation of Family-Based Education Centers throughout the Hawaiian Islands. The programs of such centers may be conducted in the Hawaiian language, the English language, or a combination thereof, and shall include—

[(1) parent-infant programs for prenatal through three-year-olds;

[(2) preschool programs for four- and five-year-olds;

[(3) continued research and development; and

[(4) a long-term followup and assessment program, which may include educational support services for Native Hawaiian language immersion programs or transition to English speaking programs.

[(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

[(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the centers described in subsection (a), there are authorized to be appropriated \$6,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.]

### OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

#### A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the committee reports that the need for this legislation was confirmed by the oversight hearings of the Subcommittee on Human Resources.

The Subcommittee on Human Resources received extensive testimony on all aspects of welfare reform, and determined that the provisions found in the chairman's amendment adopted by the committee were the appropriate actions to take to reform the Nation's welfare system.

#### B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE GOVERNMENT REFORM AND OVERSIGHT COMMITTEE

In compliance with clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the committee states that no oversight findings or recommendations have been submitted to the committee by the Committee on Government Reform and Oversight regarding the subject of this bill.



## **MISCELLANEOUS HOUSE REPORT REQUIREMENTS**

### **CONGRESSIONAL BUDGET OFFICE ESTIMATE**

Clause 2(1)(3)(B) of rule XI requires reports to include an estimate by the Congressional Budget Office [CBO]. The estimate provided by CBO of the bill as ordered reported by the Committee on the Budget (encompassing all the recommendations submitted to the Committee on the Budget) is as follows:

1942



CONGRESSIONAL BUDGET OFFICE  
U.S. CONGRESS  
WASHINGTON, D.C. 20515

June E. O'Neill  
Director

June 26, 1996

Honorable John R. Kasich  
Chairman  
Committee on the Budget  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed federal, state and local, and private sector cost estimates for the Welfare and Medicaid Reform Act of 1996, as ordered reported by the House Committee on the Budget on June 18, 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,

June E. O'Neill

Enclosures

cc: Honorable Martin Olav Sabo  
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE  
FEDERAL COST ESTIMATE

June 26, 1996

1. BILL NUMBER: Not yet assigned.
2. BILL TITLE: Welfare and Medicaid Reform Act of 1996
3. BILL STATUS:  
  
As ordered reported by the House Committee on the Budget on June 18, 1996.
4. BILL PURPOSE:  
  
The bill would reform and restructure the welfare and Medicaid programs and provide for reconciliation pursuant to section 201(a)(1) of the concurrent resolution on the budget for fiscal year 1997.
5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:  
  
The bill would reduce outlays by \$123 billion and increase revenues by \$2 billion over the 1997-2002 period. Because the bill as reported contains two different maintenance-of-effort requirements (MOE) for state child-care spending, two estimates are provided. Tables 1 and 2 display the savings when the Committee on Economic and Educational Opportunities MOE and Committee on Ways and Means MOE, respectively, are assumed to be binding. Table 3 presents the estimated savings by title, but because of conflicting provisions in Titles III and IV, the title totals cannot be summed together to arrive at a grand total for the bill as a whole.



TABLE 1  
OUTLAY AND REVENUE EFFECTS OF WELFARE AND MEDICAID REFORM ACT OF 1996  
ASSUMING CHILD CARE POLICIES RECOMMENDED BY THE  
COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Assumes enactment date of October 1, 1996.

(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7 year Total
DIRECT SPENDING								
PROJECTED OUTLAYS 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	37,993	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	18,440	20,121	20,824	21,621	22,386	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	913	944	895	718	98	-799	2,769
Food Stamp Program b/	0	-2,154	-3,639	-4,027	-4,192	-4,522	-4,862	-23,396
Supplemental Security Income	0	-643	-3,715	-4,339	-4,854	-4,378	-4,993	-22,922
Medicaid	0	501	-1,570	-7,400	-13,427	-20,660	-29,171	-71,727
Child Nutrition c/	0	-147	-423	-539	-653	-745	-820	-3,327
Old-Age, Survivors and Disability Insurance	0	-2	-13	-27	-31	-31	-34	-138
Foster Care d/	0	77	40	28	41	51	61	298
Social Services Block Grant	0	-250	-280	-280	-280	-280	-280	-1,650
Earned Income Tax Credit e/	0	-220	-566	-560	-570	-525	-621	-3,142
Total	0	-1,935	-9,222	-16,249	-23,248	-31,062	-41,519	-123,235
PROJECTED OUTLAYS UNDER PROPOSAL								
Family Support Payments a/	18,371	19,718	20,251	20,830	21,275	21,343	21,138	
Food Stamp Program b/	26,220	25,940	26,063	27,065	28,284	29,325	30,421	
Supplemental Security Income	24,017	27,261	26,495	28,237	33,141	30,137	35,355	
Medicaid	96,086	105,582	113,868	118,966	124,727	130,852	137,273	
Child Nutrition c/	8,428	8,751	9,027	9,473	9,927	10,421	10,947	
Old-Age, Survivors and Disability Insurance	348,186	365,401	383,389	402,324	422,381	444,050	466,733	
Foster Care d/	3,840	4,362	4,727	5,111	5,547	6,011	6,494	
Social Services Block Grant	2,880	2,760	2,770	2,720	2,640	2,590	2,560	
Earned Income Tax Credit	18,440	19,961	20,328	21,131	22,016	22,817	23,528	
Total	546,468	579,736	606,918	635,857	669,938	697,546	734,457	
REVENUES								
PROPOSED CHANGES IN REVENUES e/	0	34	345	352	372	396	426	1,925

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, and the Emergency Food Assistance Program under proposed law.

c/ Child Nutrition Programs encompasses direct spending authorized by the National School Lunch Act and the Child Nutrition Act.

d/ Under current law, Foster Care includes Foster Care, Adoption Assistance, Independent Living, and Family Preservation and Support. Under proposed law, Foster Care would include Foster Care, Adoption Assistance, Independent Living, the Child Protection Block Grant, and child welfare studies.

e/ Revenue and outlay estimates provided by the Joint Committee on Taxation.

TABLE 2  
OUTLAY AND REVENUE EFFECTS OF WELFARE AND MEDICAID REFORM ACT OF 1996  
ASSUMING CHILD CARE POLICIES RECOMMENDED BY THE COMMITTEE ON WAYS AND MEANS

Assumes enactment date of October 1, 1996.

(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7 year Total
DIRECT SPENDING								
PROJECTED OUTLAYS 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	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	958	996	945	768	148	-749	3,066
Food Stamp Program b/	0	-2,154	-3,639	-4,027	-4,192	-4,522	-4,862	-23,396
Supplemental Security Income	0	-643	-3,715	-4,339	-4,854	-4,378	-4,993	-22,922
Medicaid	0	501	-1,570	-7,400	-13,427	-20,660	-29,171	-71,727
Child Nutrition c/	0	-147	-423	-539	-653	-745	-820	-3,327
Old-Age, Survivors and Disability Insurance	0	-2	-13	-27	-31	-31	-34	-138
Foster Care d/	0	77	40	28	41	51	61	298
Social Services Block Grant	0	-250	-280	-280	-280	-280	-280	-1,650
Earned Income Tax Credit e/	0	-230	-566	-560	-570	-595	-621	-3,142
Total	0	-1,890	-9,170	-16,199	-23,198	-31,021	-41,469	-122,938
PROJECTED OUTLAYS UNDER PROPOSAL								
Family Support Payments a/	18,371	19,763	20,303	20,880	21,325	21,393	21,188	
Food Stamp Program b/	26,220	25,940	26,063	27,065	28,284	29,325	30,421	
Supplemental Security Income	24,017	27,261	26,495	28,237	33,141	30,137	35,355	
Medicaid	96,086	105,582	113,868	118,966	124,727	130,852	137,273	
Child Nutrition c/	8,428	8,751	9,027	9,473	9,927	10,421	10,947	
Old-Age, Survivors and Disability Insurance	348,186	365,401	383,389	402,324	422,381	444,050	466,733	
Foster Care d/	3,840	4,362	4,727	5,111	5,547	6,011	6,494	
Social Services Block Grant	2,880	2,760	2,770	2,720	2,640	2,590	2,560	
Earned Income Tax Credit	18,440	19,961	20,328	21,131	22,016	22,817	23,536	
Total	546,468	579,781	606,970	635,907	669,988	697,596	734,507	
REVENUES								
PROPOSED CHANGES IN REVENUES e/	0	34	345	352	372	396	426	1,925

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, and the Emergency Food Assistance Program under proposed law.

c/ Child Nutrition Programs encompasses direct spending authorized by the National School Lunch Act and the Child Nutrition Act.

d/ Under current law, Foster Care includes Foster Care, Adoption Assistance, Independent Living, and Family Preservation and Support. Under proposed law, Foster Care would include Foster Care, Adoption Assistance, Independent Living, the Child Protection Block Grant, and child welfare studies.

e/ Revenue and outlay estimates provided by the Joint Committee on Taxation.

TABLE 3  
DIRECT SPENDING AND REVENUE EFFECTS OF WELFARE AND MEDICAID REFORM ACT OF 1996-- BY TITLE  
Assumes enactment date of October 1, 1996.

(by fiscal year, in millions of dollars)

	1997	1998	1999	2000	2001	2002	7 year Total
<b>TITLE I--COMMITTEE ON AGRICULTURE</b>							
Direct Spending							
Food Stamps							
Budget Authority	-1,845	-3,284	-3,834	-4,273	-4,772	-5,284	-23,292
Outlays	-1,845	-3,284	-3,834	-4,273	-4,772	-5,284	-23,292
Title I Total--Direct Spending	-1,845	-3,284	-3,834	-4,273	-4,772	-5,284	-23,292
Budget Authority	-1,845	-3,284	-3,834	-4,273	-4,772	-5,284	-23,292
Outlays	-1,845	-3,284	-3,834	-4,273	-4,772	-5,284	-23,292
<b>TITLE II--COMMITTEE ON COMMERCE</b>							
Direct Spending							
Medicaid							
Budget Authority	501	-1,570	-7,400	-13,427	-20,660	-29,171	-71,727
Outlays	501	-1,570	-7,400	-13,427	-20,660	-29,171	-71,727
Title II Total--Direct Spending	501	-1,570	-7,400	-13,427	-20,660	-29,171	-71,727
Budget Authority	501	-1,570	-7,400	-13,427	-20,660	-29,171	-71,727
Outlays	501	-1,570	-7,400	-13,427	-20,660	-29,171	-71,727
<b>TITLE III--COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES</b>							
Direct Spending							
Work Requirements							
Budget Authority	0	0	-50	-50	-50	-50	-200
Outlays	0	0	-50	-50	-50	-50	-200
Child Care							
Budget Authority	562	587	627	772	912	1,002	4,462
Outlays	290	499	547	637	727	772	3,473
Child Nutrition							
Budget Authority	-174	-469	-530	-583	-645	-710	-3,111
Outlays	-147	-423	-524	-578	-635	-700	-3,007
Title III Total--Direct Spending	388	118	47	139	217	242	1,151
Budget Authority	388	118	47	139	217	242	1,151
Outlays	143	76	-27	9	42	22	266
<b>TITLE IV--COMMITTEE ON WAYS AND MEANS</b>							
Direct Spending							
Family Support							
Budget Authority	1,178	990	945	823	253	-601	3,588
Outlays	958	996	945	768	148	-749	3,066
Food Stamps							
Budget Authority	-309	-355	-193	81	250	422	-104
Outlays	-309	-355	-193	81	250	422	-104
Supplemental Security Income							
Budget Authority	-643	-3,715	-4,339	-4,854	-4,378	-4,993	-22,922
Outlays	-643	-3,715	-4,339	-4,854	-4,378	-4,993	-22,922
Old-Age, Survivors, and Disability Insurance							
Budget Authority	-2	-13	-27	-31	-31	-34	-138
Outlays	-2	-13	-27	-31	-31	-34	-138
Foster Care							
Budget Authority	77	40	26	41	51	61	296
Outlays	77	40	28	41	51	61	298
Social Services Block Grant							
Budget Authority	-280	-280	-280	-280	-280	-280	-1,680
Outlays	-250	-280	-280	-280	-280	-280	-1,650
Earned Income Tax Credit							
Budget Authority	-230	-566	-560	-570	-595	-621	-3,142
Outlays	-230	-566	-560	-570	-595	-621	-3,142
Child Nutrition							
Budget Authority	0	0	-15	-85	-115	-120	-335
Outlays	0	0	-15	-75	-110	-120	-320
Title IV Total--Direct Spending	-209	-3,899	-4,441	-4,878	-4,845	-6,166	-24,438
Budget Authority	-209	-3,899	-4,441	-4,878	-4,845	-6,166	-24,438
Outlays	-401	-3,893	-4,441	-4,923	-4,945	-6,314	-24,917
Revenues							
Earned Income Tax Credit	34	345	352	372	396	426	1,925
Title IV Total--Revenues	34	345	352	372	396	426	1,925
Title IV Net Deficit Effect	-435	-4,238	-4,793	-5,295	-5,341	-6,740	-26,842

Note: Total savings are not the sum of the savings from each title because some provisions overlap.

## 6. BASIS OF ESTIMATE

Title I—Committee on Agriculture

CBO estimates that changes to food stamps in title I of the bill would reduce federal outlays by \$1.8 billion in 1997, \$5.3 billion in 2002, and \$23.3 billion over the 1997-2002 period. The following paragraphs describe the savings attributable to specific provisions, with the estimates of savings displayed in the attached Table I.

For the purposes of these estimates, CBO assumes a October 1, 1996, enactment date. Most provisions in Title I are effective October 1, 1996. CBO assumes the November 1996 allotment would be the first food stamp allotment affected by the changes.

Definition of household. Under current law, members of households who purchase food and prepare meals together must generally participate in the program as part of the same food stamp unit. In addition, certain people, such as spouses who live together, are required to participate in the same unit. The bill would change the definition of household used in the food stamp program in two ways. First, section 1013 would remove the exception in current law that allows persons age 21 and under who are themselves parents or married, and who live with a parent, to participate as a separate household. This change would lower food stamp benefits because income and resources of the household members who are not now in the food stamp unit would be counted. CBO estimates that the change would affect about 150,000 current food stamp households and would reduce food stamp outlays by \$115 million in 1997 and \$290 million in 2002.

Second, section 1014 would allow states to require any other people who live together to participate together, without regard to whether they purchase food and prepare meals together. Based on a telephone survey of state food stamp staff, CBO estimates that states with 20 percent of the caseload would eventually choose to change the definition of household, and that the changes would reduce spending on food stamps by \$10 million in 1997 and \$85 million in 2002.

Index maximum benefits to 100 percent of the thrifty food plan. Section 1015 of the bill would reduce the maximum food stamp benefit relative to current law. Under current law, maximum benefits are set each October at 103 percent of the cost of the thrifty food plan—a specific low-cost diet for a family of four. For fiscal year 1996, maximum benefits are \$397 a month for a family of four. The bill would set maximum benefits at 100 percent of the thrifty food plan beginning with the October 1996 adjustment, but would not allow the nominal maximum benefit to decline from fiscal year 1996 to fiscal year 1997. The change would lower average food stamp

benefits (compared with current law) by about \$3 per person a month. CBO estimates that food stamp outlays would decrease by \$855 million in 1997 and \$1.2 billion in 2002 as a result of this change.

Earnings of older students. Under current law, earned income of household members who are elementary or secondary students and are 21 years old or younger is disregarded in the consideration of income for food stamps. Section 1018 would lower the cutoff to age 19. CBO estimates that this change would lower spending for food stamps by \$1 million in each fiscal year.

Energy assistance. Under proposed law, energy assistance would be counted as income in the food stamp benefit determination; currently, no energy assistance is counted as income. Food stamp households could receive three major types of energy assistance—benefits from the Low Income Home Energy Assistance Program (LIHEAP), utility reimbursements from public housing authorities, and, in some states, energy assistance through Aid to Families with Dependent Children (AFDC) or General Assistance.

The first two types of energy assistance—LIHEAP payments and Department of Housing and Urban Development (HUD) utility reimbursements—are subject to annual congressional appropriation. Because there is no certainty that appropriations will occur for future fiscal years, CBO does not estimate savings for counting these types of payments as income in food stamps unless an appropriation is already in place for a fiscal year.

A handful of states currently provide part of their AFDC or General Assistance (GA) benefit as a separate energy assistance payment, which is disregarded in the food stamp benefit calculation. CBO estimates that a \$1 increase in countable income to a food stamp household results in about a 30-cent reduction in food stamp benefits. In the 9 states that currently make separate energy assistance payments, the payments range from about \$15 a month to \$120 a month. Based on these states, CBO estimates that counting state energy assistance payments as income would save \$125 million in food stamp benefits in 1997 and \$180 million in 2002.

Deductions from income. Section 1020 of the bill would freeze the standard deduction in most states at \$134. Under current law, the standard deduction is to be adjusted annually to reflect changes in the Consumer Price Index (CPI). CBO estimates that the level of the standard deduction would be \$8 below current law in fiscal year 1997 and \$30 below current law in 2002. The corresponding savings from the reduction in the standard deduction would be \$315 million in 1997 rising to \$1.5 billion in 2002. This amount corresponds to an average decrease in monthly

benefits, relative to current law, of about \$1 per person in 1997 and more than \$4 per person by 2002.

The bill further changes income deductions to allow states to require the use of a standard utility allowance for determining utility costs counted toward the shelter deduction, rather than allowing recipients to use actual utility costs, if higher, as under current law. In states that do not require the use of a standard utility allowance, households would be allowed to change between the standard utility allowance and actual costs only at recertification, rather than one additional time during a certification period. CBO estimates that states representing half of total food stamp outlays would choose the mandatory standard utility allowance option, and that together with the change in removing the option to switch between the standard utility allowance and actual costs, the provisions would lower food stamp outlays by \$35 million in 1997 and \$85 million in 2002.

The bill also would require states to establish a standard homeless shelter deduction of \$143 or less per month for homeless households that do not receive free shelter throughout the month. Currently, homeless households claim a standard shelter expense amount set by the state, or actual shelter expenses, if higher. CBO estimates that the provision would save up to \$5 million each year.

Finally, the bill would retain the cap on the excess shelter expense deduction at \$247 beginning on January 1, 1997. In the food stamp benefit determination households deduct their shelter costs to the extent that such costs exceed 50 percent of their net income after all other deductions. Under current law the excess shelter deduction is capped at \$247 until December 1996 at which time the cap expires. This bill would extend the cap at \$247, resulting in estimated savings of \$360 million in 1997 and \$915 million in 2002.

Vehicle allowance. Section 1021 would freeze the vehicle allowance at the 1996 level, \$4,600, for fiscal years beginning with fiscal year 1997. Under current food stamp law, the fair market value of vehicles is counted as an asset in determining food stamp eligibility when the value is more than \$4,600. This figure is scheduled to increase to an estimated \$5,150 for fiscal year 1997 and to increase in each succeeding year for inflation. CBO estimates that lowering the vehicle allowance would reduce food stamp outlays by \$60 million in 1997 and \$260 million in 2002.

Vendor payments for transitional housing counted as income. Housing assistance payments made to a third party on behalf of a household that resides in transitional housing for the homeless are not now counted as income. Section 1022 would delete

this exclusion. CBO estimates savings of \$10 million in each fiscal year as a result of the change.

Disqualification, comparable treatment for disqualification, permanent disqualification for participating in two or more states, and failure to comply with other welfare and public assistance programs. Four sections of the bill would change the penalties associated with noncompliance with public assistance requirements. Section 1025 of the bill increases the penalties and revises sanctions for individuals and households that fail to comply with work rules. CBO estimates the longer periods of disqualification for people found to have not complied with work requirements would save \$5 million a year.

Section 1028 of the bill would allow states to disqualify an individual from food stamps if the individual is disqualified from another public assistance program for failing to perform a required action under that program. For example, if an individual is disqualified from AFDC for failure to have a child immunized under a state's welfare reform initiative, the individual could also be disqualified from food stamps. CBO estimates that this provision would save \$20 million a year from 1997 through 2001, and \$25 million in 2002.

Section 1029 would permanently disqualify from food stamps any individual who is found to have participated fraudulently in the food stamp program simultaneously in two or more states. Under current law, an individual is disqualified from food stamps permanently only after the third violation and faces periods of ineligibility for the first and second violation. CBO estimates that the provision would save approximately \$5 million each fiscal year after 1996.

Section 1038 would prohibit food stamp benefits from increasing if benefits are reduced under another public assistance program for the failure to perform an action required under that program. In addition, the state agency could reduce the food stamp allotment by up to 25 percent. CBO estimates the provision would save \$25 million in each of fiscal years 1997 through 2002.

Employment and training. The 1996 farm bill (P.L. 104-127) provided funding for grants to states for food stamp employment and training at \$75 million for each fiscal year through 2002. Section 1027 would fund the program at somewhat higher levels. CBO estimates costs of \$56 million over the period from this change.

Cooperation with child support agencies. Two sections of the bill would address the relationship between the child support enforcement system and individuals who receive food stamps. Section 1031 would allow states to require custodial parents to

cooperate with child support enforcement as a condition for food stamp eligibility. Requiring custodial parents to participate in child support enforcement affects only custodial parents who receive food stamps but not AFDC because AFDC recipients are already required to comply with child support enforcement. Based on a recent study published by the Food and Consumer Service, CBO estimates that the Food Stamp program would save money because some recipients would receive more income from child support, a few additional people would choose not to participate in the program, and some participants would have their benefits reduced for noncompliance. Much of the food stamp savings would be offset by costs in the child support enforcement system. In 2000, when the provision would be fully implemented, CBO estimates that states with 25 percent of the food stamp caseload would opt to implement the provision, outlays for food stamps would be \$20 million lower, and federal outlays for child support enforcement would be \$15 million higher.

Section 1032 would allow states to eliminate food stamp eligibility for noncustodial parents who are delinquent in payment of child support. CBO estimates that states with 50 percent of the caseload would choose to deny food stamp eligibility to individuals in arrears on child support enforcement payments. This change would eliminate 25,000 people from the program and save \$30 million in 2002.

Work requirement. Section 1033 would limit receipt of food stamp benefits to a period of four months in any twelve-month period for able-bodied individuals who do not have dependent children and who are not working or participating in an appropriate training or work activity. Based on the Food Stamp Quality Control (QC) data, the Survey of Income and Program Participation (SIPP), and studies of caseload dynamics, CBO estimates that approximately 900,000 people would potentially be subject to disqualification in an average month. The bill allows for waivers from the requirement if the Secretary of Agriculture determines that an area has an unemployment rate greater than 10 percent or has insufficient jobs. CBO estimates that 2 percent of people who would otherwise be disqualified because of the provision would live in areas under a waiver. Furthermore, CBO assumes that states would dedicate their food stamp employment and training efforts toward people who would otherwise be disqualified and would serve over 100,000 individuals in an average month. Finally, an individual could reestablish eligibility for another four month period after a month of working or participating in an allowable employment or training program. After these exclusions, CBO estimates that the provision would remove about 700,000 individuals from the rolls in an average month once the provision is implemented fully, resulting in savings of \$130 million in food stamp benefits in 1997 and \$820 million in 2002.



Minimum benefit. Food stamp households with one or two persons who are eligible for less than \$10 receive a minimum allotment of \$10. This minimum allotment is currently adjusted each October to reflect the change in the cost of the thrifty food plan, with the result rounded to the nearest \$5. Section 1035 would remove the inflation adjustment and keep the minimum benefit at \$10. Under CBO's economic forecast, the minimum benefit would rise to \$15 in 1998. CBO estimates that retaining a \$10 minimum benefit would save \$30 million in each of fiscal years 1998 to 2000 and \$35 million in 2001 and 2002.

Benefits on recertification. Current law allows for food stamp households that fail to complete recertification requirements in the last month of a certification period to receive full benefits in the following month if they are certified eligible by the end of the first month of the subsequent certification period. Section 1036 would pro-rate benefits for the first month of the new certification period to the date the household is determined eligible. CBO estimates this change would save \$25 million a year in 1997 through 2000, and \$30 million in 2001 and 2002.

Income, eligibility, and immigration status verification systems. Section 1049 would grant states a greater degree of flexibility in the types of verification systems they use, resulting in \$5 million a year in estimated savings.

Collection of overissuances. Section 1052 would amend the procedures for collecting claims and would save money in four ways. First, CBO estimates savings of \$5 million a year from mandating states to use the Internal Revenue Service tax offset procedures. Second, allowing states to recoup benefits to collect overpayments resulting from state agency error would save another \$5 million a year. Third, allowing for garnishing of federal pay in instances of food stamp overissuance would save \$1 million a year once it is fully implemented but \$5 million in fiscal years 1998 and 1999 because the provision would affect a backlog of overissuances.

Fourth, the bill would change claims retention rates to allow states to retain 25 percent of all claims collected, except for claims resulting from state agency error. Under this policy the federal government would receive a larger portion of claims collections and states would retain less. This change would result in additional estimated savings to the federal government of about \$15 million in 1997 through 2001 and \$20 million in 2002.

Termination of federal match for optional information activities. Section 1055 would end the federal match of administrative funds spent on informational activities. Based on information from the Food and Consumer Service, CBO estimates that \$2 million a year would be spent on these activities.

Work supplementation or support program. Section 1057 would allow states to use the amount of food stamp benefits to subsidize employers in hiring and employing public assistance recipients for up to a year for any given recipient. CBO estimates costs to the federal government from this provision, because research has demonstrated that persons participating in grant diversion programs have longer spells of receiving public assistance. Based on the interest of states in work supplementation programs in the JOBS program, CBO assumes that about 20,000 additional people would participate in a work supplementation program in any given month once the provision is implemented fully. CBO estimates that food stamp outlays would be higher by \$30 million in 2000, when the programs would be fully implemented.

Private sector employment initiatives. Section 1060 would allow states where half or more of the food stamp households in the summer of 1993 were also AFDC recipients to pay benefits in cash to households that also receive AFDC and have a member who is employed. Based on recent studies of cash-out demonstrations, CBO estimates that issuing food stamps as cash saves about a dollar a month relative to coupon issuance. Furthermore, based on QC data, CBO estimates that 10 states would be eligible to participate based on the proportion of their caseload that was also receiving AFDC in the summer of 1993, and that these states would have about 300,000 households eligible for cash benefits under the policy. CBO anticipates that states with half of the households eligible for cash benefits would choose to provide benefits in cash, and that total savings would be \$2 million a year once the provision is phased in.

Simplified Food Stamp program. Section 1062 would give states the option of simplifying food stamp program rules within certain limits. The bill stipulates that the Secretary of Agriculture could approve a state plan for a simplified program only if the state documents that the plan would not increase federal costs. CBO cannot determine how many states would apply to use simplified rules or what the Secretary's criteria for approving such plans would be. Because there is no mechanism for states to reimburse the federal government if costs are higher than under current rules, and because there is a lag between the time such costs occur and corrective action is taken, CBO estimates that the provision would entail some costs. CBO estimates higher food stamp outlays of \$10 million in fiscal year 1998 rising to \$30 million in fiscal year 2002.

Optional state food assistance block grant. Section 1063 would allow a state to choose to participate in a block grant program for food assistance instead of the Food Stamp program if (1) it has implemented statewide an electronic benefit transfer (EBT) system, or (2) its most recent payment error rate is less than 6 percent, or (3)

it agrees to pay a calculated amount representing the cost of food stamps in the state in excess of the 6 percent payment error rate. Under this program states would receive, for any fiscal year, the higher of the amount the state received in fiscal year 1994 for benefits and administration or the average of these amounts over fiscal years 1992, 1993, and 1994. If a state elected to participate in the block grant, it would be allowed to switch back to the Food Stamp program one time. CBO estimates that states with 2.5 percent of the food stamp caseload would take a block grant in fiscal year 1997, states with 5 percent of the food stamp caseload would take a block grant in 1998, and states with 7.5 percent of the food stamp caseload would opt for the block grant in 1999-2002. Because, on average, the block grant amount would be lower than what the states would have received under current law, CBO estimates that the provision would save \$75 million in fiscal year 1997 and \$705 million in 2002.

This estimate is highly sensitive to the number of states that would opt for the block grant and the amount of food stamp benefits in those states. If, in fiscal year 2000, 30 percent of the caseload were in states choosing a block grant, rather than the 7.5 percent CBO estimates, the savings in that fiscal year would be \$2.3 billion rather than the \$510 million that CBO now estimates.

Food stamp eligibility. Under current law, if a household has a member who is not eligible for food stamps on the basis of his or her citizenship status, the income of that person is pro-rated and only a portion of it is counted toward the food stamp benefit. Section 1066 would give states the option to count all of the ineligible person's income toward the food stamp unit. CBO assumes that one quarter of the states would elect this option and that food stamp spending would be lowered by \$15 million in 1997 and \$25 million in 2002.

Emergency Food Assistance program. The Emergency Food Assistance program is currently subject to annual appropriation. Section 1071 of the bill creates an entitlement to states for their portion of the program and funds it at \$300 million a year.

Interactions among provisions. The estimates of individual provisions shown in the table for Title I do not reflect the effects of other provisions in the title. If the bill were enacted, total savings would be less than the sum of the estimates of individual provisions. For example, states that elected a block grant would receive a fixed amount each year and would not participate in the Food Stamp program as currently structured. Thus, estimated savings for every other provision in the bill would not be achieved in states that chose a block grant. Also, savings attributed to lower maximum benefits, a lower standard deduction, and the reinstatement of the cap on the excess shelter deduction—which are estimated based on food stamp participation

under current law--would not be achieved for people who would lose their benefits because of the work requirements. CBO estimates that the interactions among overlapping provisions in the food stamp chapter would reduce savings relative to the sum of the independent estimates by \$72 million in 1997 and \$540 million in 2002.

#### Title II--Committee on Commerce

Title II of the bill contains the changes in the Medicaid program approved by the Committee on Commerce. 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 II.

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 Title IV, 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 \$71.7 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.

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 \$3.5 billion for illegal aliens and \$500 million 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, unlike current Medicaid policy, they would be able 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. 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.

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 increasing cost-sharing for beneficiaries and scaling back eligibility and services. 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.

### Title III--Committee on Economic and Educational Opportunities

The budgetary effects of the bill on work requirements, child care, and child nutrition programs are detailed in the attached Table III.

#### Subtitle A--Work Requirements

Title III includes provisions that require states to provide work and training activities for an increasing percentage of recipients of 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 two separate requirements, both 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.

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 participate in work-related activities. In 1994, states attempted to implement a requirement that 40 percent of AFDC-UP families participate, and roughly 40 states failed the requirement.

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.

#### Subtitle C--Child Care

The recommendations of the Committee on Economic and Educational Opportunities and the Committee on Ways and Means would both create a new mandatory block grant to states for the provision of child care to low-income individuals. The Opportunities Committee's child care provisions are contained in Subtitle C of Title III. This subtitle would repeal the current AFDC Work-Related and Transitional Child Care programs, which are open-ended entitlements that provide child care to



welfare recipients, as well as the At-Risk Child Care program, a mandatory block grant to states that assists individuals who are at risk of joining the welfare rolls if they do not receive assistance in paying for child care. Repealing these programs would reduce outlays by \$1.3 billion in fiscal year 1997 and \$9.3 billion from 1997 through 2002.

This subtitle would replace these programs with a mandatory child care block grant to states. Individual states would be entitled to what they received for AFDC 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 subtitle 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 it is replacing. The six-year total funding would be higher than the sum of what would be needed if states were to meet the work requirements of the welfare provisions of the bill (and in any case, CBO assumes that not all states would meet the work requirements) and what would be spent on the Transitional and At-Risk Child Care programs under current law. Further, 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 and the creation of a new block grant under this subtitle would be to increase federal outlays by \$0.3 billion in 1997 and \$3.5 billion over the 1997-2002 period.

#### **Subtitle D—Child Nutrition Programs**

CBO estimates that provisions proposed by the Committee on Economic and Educational Opportunities that affect child nutrition programs would lower federal

outlays by \$147 million in fiscal year 1997, \$700 million in fiscal year 2002, and \$3.0 billion over the 1997-2002 period.

Special Assistance. The bill would allow all schools that participate in the School Lunch and Breakfast programs under a provision which allows them to offer all meals free in exchange for collecting applications less frequently to participate for five years at a time without a redetermination rather than three years at a time. Currently only schools that were participating at the time of the 1994 reauthorization of the programs can participate under these terms. CBO assumes that this change would make participation under such terms slightly more attractive to schools and would cost \$1 million a year in each of fiscal years 1999 through 2002.

Summer food service program for children. Section 3406 would reduce reimbursement rates for the summer food service program to \$1.82 for lunches, \$1.13 for breakfasts, and \$0.46 for supplements. These rates would be adjusted for inflation on January 1, 1997 and become effective in the summer of 1997. Under current law, CBO projects the summer 1997 rates would be \$2.22 for lunches, \$1.24 for breakfasts, and \$0.58 for supplements. In addition, rates would be rounded to the lower cent, rather than the nearest quarter cent, in the calculation of the annual adjustment for inflation. CBO estimates these provisions would save \$34 million in 1997 and \$59 million in 2002.

Child and Adult Care Food Program. Section 3408 would restructure the family day care home component of the Child and Adult Care Food program and would save \$90 million in 1997 and \$590 million in 2002. Currently, meals served in family day care homes all receive the same reimbursement rates: \$1.5375 for lunches, \$0.8450 for breakfasts, and \$0.4575 for supplements, during the July 1995 to June 1996 period. The bill would create two tiers of reimbursement rates. The first tier would apply to homes that are located in an area in which at least 50 percent of the children are from households whose incomes are below 130 percent of poverty, or are operated by a provider whose household income is less than 130 percent of poverty. Rates for tier I homes would be the same as current law rates, except the rates would be rounded down each year to the lower cent, rather than to the nearest quarter cent. All other homes would receive a lower, tier II rate--\$0.90 for lunch, \$0.25 for breakfast, and \$0.10 for supplements. These rates would be adjusted annually (beginning July 1, 1997) and rounded down to the lower cent. Homes in tier II would be able to claim the tier I rates for any children who are from families with incomes below 130 percent of poverty. CBO estimates that 35 percent of meals would be reimbursed at the higher, tier I rates, and that somewhat fewer meals would be served in the program because of the reduction in rates for most meals. In addition, the bill would provide

\$5 million in 1997 for grants to states for assistance to sponsoring organizations and homes in implementing the new provisions.

The bill would also limit to three the number of meals that can be reimbursed in a given day in eligible child care centers. CBO estimates savings of \$10 million in 1997 and \$20 million in 2002 from this change. With these changes taken together, CBO estimates savings of \$95 million in 1997 and \$610 million in 2002 from changes in the Child Care Food Program.

School breakfast program authorization. Section 3423 of the bill would eliminate funding for school breakfast startup grants under the Child Nutrition Act starting in fiscal year 1997. Startup grants are currently funded at \$5 million a year through fiscal year 1997, \$6 million in fiscal year 1998, and \$7 million in fiscal year 1999. Funds are to be used for assisting schools and other institutions in initiating and expanding school breakfast programs and summer food service programs. In addition, CBO estimates that repealing the money for startup grants would result in fewer meals served over the period. The savings from fewer meals would be \$3 million in 1997 and \$22 million in 2002.

Nutrition education and training. Section 3430 would shift funding for nutrition education and training to be a discretionary appropriation rather than mandatory spending. CBO estimates \$10 million each year in direct spending savings, starting in fiscal year 1997.

#### Title IV--Committee on Ways and Means

The legislative changes in Title IV of the bill would result in estimated budget savings of \$435 million in 1997 and \$26.8 billion over the 1997-2002 period. Detailed estimates by subtitle are displayed in Tables IV-A through IV-H.

##### Subtitle A--Temporary Assistance for Needy Families Block Grant

Subtitle A of Title IV of the reconciliation bill 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.

**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 1997 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 1997 through 2000. A state that did not meet the qualifying criteria in 1997 would not be eligible to qualify in any later year. CBO estimates that eighteen states would receive supplemental grants of nearly \$85 million in 1997 growing to about \$300 million by 2000.

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 be 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 \$200 million each year for 1999-2003.

Fourth, the bill would establish a fund (called the Contingency Fund for State Welfare Programs) of \$2.0 billion for use in fiscal years 1997-2001 by states with high and increasing unemployment rates or growth in food stamp caseloads.<sup>1</sup> A state

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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 and 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

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 \$100 million from the contingency fund in 1997 and would use about \$1.5 billion from the fund over the 1997-2001 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.

Subtitle A also establishes mandatory work requirements in TANF that are much stricter than those in the current AFDC program. These requirements are similar to those described earlier under Title III, except the Ways and Means Committee version has lower required participation rates and hours of required participation. Despite the less strict provisions of Title IV, CBO still concludes that most states would fail to meet these requirements. States would also face an additional requirement under the Ways and Means Committee provision. 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.

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

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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.

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. (This estimate is identical to the savings from the same provisions in Title III.) 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 \$115 million cap on payments to the territories represents an increase of about \$10 million over current-law amounts.

CBO estimates federal savings in Subtitle A by comparing current law projections of AFDC and JOBS with the block grant levels. 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 \$0.7 billion less than the federal government would spend under Subtitle A (not including the repeal of child care). By 2002, projected spending under current law (\$18.3 billion) would exceed projected spending under Subtitle A (not including the repeal of child care) by \$1.0 billion.

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 75 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.

Subtitle B: Supplemental Security Income

The bulk of the savings in Subtitle B would stem from imposing tighter eligibility criteria for children seeking benefits in the Supplemental Security Income (SSI) program. Subtitle B would also make a variety of other changes. It would reduce the amount of the benefit in the first month for new SSI applicants, permit the recovery of SSI overpayments from Social Security checks, 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 and Social Security recipients in their institutions. Net savings, which reflect additional food stamp spending, are estimated to equal \$2.1 billion in 2002 and \$8.7 billion over the 1997-2002 period (see Table IV-B). Of this six-year total, \$138 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. 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 program would be abolished in Subtitle A 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) and in the SSI program's treatment of trust funds and asset divestitures. 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 Subtitle D, 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.

Recovery of SSI overpayments from Social Security checks. SSI recipients are sometimes found to have been overpaid—generally because their income or living arrangements, or a family member's income, changed without the SSA's immediately becoming aware of it. In those cases, SSA can deduct the overpayment from subsequent SSI checks, or can try to make other repayment arrangements. But SSA cannot deduct the SSI overpayment from a Social Security check. Almost 40 percent of SSI recipients collect Social Security in addition to SSI, and still others have stopped collecting SSI but get Social Security.

This provision would permit SSA to deduct the SSI overpayments from Social Security checks. It does not spell out specific procedures. SSA, which prepared estimates of this proposal as part of President Clinton's 1997 budget, assumed that it would follow procedures already in place for subtracting such debts from subsequent SSI checks. In such cases, to prevent hardship, the reduction cannot exceed 10 percent of the recipient's monthly income; SSA also assumed that the reduction would not exceed \$25 a month. The Commissioner of Social Security has authority to waive the recovery of overpayments in some circumstances. Under those assumptions, savings could equal about \$45 million in 1997 (as a pool of already-outstanding overpayments is recovered) and gradually settle down to about \$25 million a year.

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 apply SSI-like restrictions to prisoners receiving OASDI. It also proposes to provide correctional institutions payments equal to as much as \$400 if they report information to SSA that leads to identification of an ineligible inmate 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 three principal budgetary effects. First, by imposing SSI-like restrictions on Social Security payments, the bill would save money in the OASDI program. Because that change would ban benefits to inmates awaiting trial or convicted for short sentences, CBO assumes that it would chiefly affect inmates of county jails. Second, 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. Third, 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 \$270 million and payments to jurisdictions to cost \$80 million, for a net savings of \$190 million; the OASDI components alone are \$185 million, \$47 million, and \$138 million, respectively. SSA's extra administrative costs—which, in contrast to those two items, would require Congressional appropriation—are estimated at \$129 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 \$129 million over the 1997-2002 period.

#### Subtitle C: Child Support Enforcement

Subtitle C 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 subtitle would cost \$26 million in fiscal year 1997 and \$138 million in 2002. The key provisions of Subtitle C 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 2000 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 fund further improvements in states' automated systems at an estimated annual cost of about \$100 million. The bill would also provide about \$50 million annually to provide technical assistance to states and to operate a computer system designed to locate non-custodial parents.

#### Subtitle D: Noncitizens

Subtitle D would limit the eligibility of legal aliens for public assistance programs. It would explicitly make most immigrants ineligible for SSI and food stamps. 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.

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 stamps 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 Subtitle D 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 Subtitle D restricting benefits to aliens would therefore produce no additional savings in these programs.

Subtitle F--Child Protection

Subtitle F of Title IV would repeal the mandatory Family Preservation and Support program, a preventive program designed to intervene in families by teaching improved parenting skills before a child must be removed to a foster care setting. This title would replace this program with a more general child protection block grant to the states, including a mandatory portion that would be funded at the same levels as the current Family Preservation and Support block grant. Since the current foster care and adoption assistance programs would be continued under this subtitle, CBO assumes that states would use this general child protection block grant for family preservation and support services, and therefore would have similar outlay patterns as the current program. Therefore, savings from the repeal of the Family Preservation and Support program and costs of the new child protection block grant would exactly offset each other and hence would have no net budgetary effects.

Subtitle F of Title IV would also fund new mandatory child protection studies. This title would provide \$16 million for activities related to a national random sample study of child welfare for fiscal years 1997 through 2002, for a total of \$96 million over six years. It would also provide \$10 million for both fiscal year 1997 and 1998 for an assessment of state courts' handling of proceedings relating to foster care and adoption.

Finally, Subtitle F of Title IV 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. Subtitle F 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.

Subtitle G--Child Care

Subtitle G contains the provisions on child care recommended by the Committee on Ways and Means. This subtitle is identical to Subtitle C of Title III discussed above, with two exceptions. First, the repeal of current child care programs is in Subtitle A of Title IV rather than in this subtitle. Second, Subtitle G of Title IV has lower maintenance-of-effort requirements for states to draw down additional child care money (states would have to maintain 1994 levels) than the Opportunities

Committee's subtitle (states would have to maintain the higher of 1994 or 1995 levels). Under Subtitle G, many states would receive the difference between funding from the federal government in fiscal year 1994 and funding in fiscal year 1995 on an unmatched basis and thereby have more funds to draw down a greater share of the block grant. CBO estimates that outlays would total \$13.1 billion, about \$0.3 billion higher than spending under the block grant in the Subtitle C of Title III.

#### Subtitle H—Miscellaneous

This subtitle 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 \$262 million in 1997 and \$5.1 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. Subtitle H would reduce this amount by 10 percent resulting in outlay savings of \$250 million in 1997 and \$1.65 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. Subtitle H contains three changes to the EITC.

Section 4904 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 section of the bill would lower the limit to \$2,250 and would expand the definition of investment income to include the positive capital gains and passive income. This change would reduce outlays by \$3 million in 1997 and \$781 million over the 1997-2002 period. The related revenue increases are \$1 million and \$125 million, respectively.

Section 4905 would modify the definition of adjusted gross income (AGI) for the calculation of the EITC. Income from tax-exempt interest, Social Security benefits not in AGI, 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 \$2 million in 1997 and \$607 million over six years. Revenues would be higher by a negligible amount in 1997 and by \$114 million over the 1997-2002 period.

Section 4906 would modify the EITC by changing the way in which the credit is phased out. The JCT estimates that this section would reduce the deficit by \$6 million in 1997 and \$1.8 billion over six years. In contrast to the other provisions affecting the EITC, the increased revenues account for the bulk of the impact on the deficit, amounting to about five-sixths of the total.

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.

#### 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 WELFARE AND MEDICAID REFORM ACT OF 1996, AS REPORTED BY THE COMMITTEE ON THE BUDGET ON JUNE 18, 1996**

(by fiscal years, in millions of dollars)

	1996	1997	1998
<b>Assuming the Child Care Recommendations of the Committee on Economic and Educational Opportunities</b>			
Change in Outlays	0	-1,914	-9,181
Change in Revenues	0	34	345
<b>Assuming the Child Care Recommendations of the Committee on Ways and Means</b>			
Change in Outlays	0	-1,869	-9,129
Change in Revenues	0	34	345

**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:**

In many respects, the Welfare and Medicaid Reform Act of 1996 is the successor to H.R. 4, the welfare reform bill that was passed by the Congress last December and vetoed by the President. Many provisions of this bill are identical to those in H.R. 4. For those provisions that have not changed materially, CBO now depicts no savings at all in 1996 and generally estimates smaller savings in 1997 because of the delay in enactment. H.R. 4 principally addressed cash welfare programs and nutrition programs and did not focus on Medicaid, although some of its specific provisions (for example, those governing aliens) would have affected Medicaid spending. This new bill proposes a wholesale revamping of Medicaid. Other specific provisions of H.R. 4 have been dropped (for example, a "two-tier" benefit structure that would lower benefits by 25 percent for most disabled children who still met the tighter eligibility criteria), and some new provisions have been added (for example, provisions affecting the Earned Income Tax Credit).

The Medicaid portion of the Welfare and Medicaid Reform Act of 1996 is similar to the Medicaid title of H.R. 2491, the Balanced Budget Act of 1995, as passed by the Congress and vetoed by the President. The major structural difference between H.R. 3507 and that bill is the inclusion of supplemental umbrella payments for states with excess growth in certain population groups with guaranteed coverage. In contrast to the total of the state pool amounts, spending on the umbrella payments is not limited. Major differences in the savings estimates of H.R. 3507 and H.R. 2491 stem from a later enactment date, a lower Medicaid baseline, and slightly higher aggregate pool amounts.

On June 17, 1996, CBO sent a letter to the Chairmen and Ranking Minority Members of the House Committee on Budget, Committee on Agriculture, Committee on Commerce, Committee on Economic and Educational Opportunities, and the Committee on Ways and Means summarizing the estimates described here. The earlier estimate inadvertently excluded \$300 million in 1997 from the baseline spending on Medicaid--outlays resulting from Public Law 104-134, the Omnibus Consolidated Rescission and Appropriations Act of 1996. Because the bill sets limits on Medicaid spending, this change in the baseline results in an additional \$300 million in savings for 1997. This estimate also includes a revision to the estimated savings from the vehicle allowance provisions in Title I.

11. ESTIMATE PREPARED BY:

Sheila Dacey (226-2820), Christi Hawley (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:



Paul N. Van de Water  
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TABLE I  
FEDERAL BUDGET EFFECTS OF TITLE I, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
FOOD STAMPS AND COMMODITY DISTRIBUTION  
As ordered reported by the House Committee on Budget on June 18, 1996

06/26/96

Assumed date of enactment: October 1, 1996.

(outlays by fiscal year, in millions of dollars)								
Section	1996	1997	1998	1999	2000	2001	2002	1996-2002
1011 Definition of certification period	--	0	0	0	0	0	0	0
1012 Definition of coupon	--	0	0	0	0	0	0	0
1013 Treatment of children living at home	--	-115	-245	-255	-265	-280	-290	-1,450
1014 Optional additional criteria for separate household determinations	--	-10	-35	-55	-75	-80	-85	-340
1015 Adjustment of thrifty food plan	--	-855	-980	-1,025	-1,070	-1,115	-1,155	-6,200
1016 Definition of homeless individual	--	..	..	..	..	..	..	..
1017 State option for eligibility standards	--	0	0	0	0	0	0	0
1018 Earnings of students	--	-1	-1	-1	-1	-1	-1	-6
1019 Energy assistance	--	-125	-170	-175	-175	-180	-180	-1,005
1020 Deductions from income								
Standard deduction at \$134 each year	--	-315	-555	-770	-990	-1,220	-1,465	-5,315
Homeless shelter allowance	--	-1	-1	-2	-3	-3	-5	-15
Cap excess shelter deduction at \$247 each year	--	-380	-590	-660	-740	-825	-915	-4,090
State option for mandatory standard utility allowance and otherwise allow change between SUA and actual costs only at recertification	--	-35	-70	-75	-80	-80	-85	-425
1021 Vehicle Allowance	--	-60	-150	-185	-210	-235	-260	-1,100
1022 Vendor payments for transitional housing counted as income	--	-10	-10	-10	-10	-10	-10	-60
1023 Doubled penalties for violating Food Stamp program requirements	--	..	..	..	..	..	..	..
1024 Disqualification of convicted individuals	--	..	..	..	..	..	..	..
1025 Disqualification	--	-5	-5	-5	-5	-5	-5	-30
1026 Caretaker exemption	--	0	0	0	0	0	0	0
1027 Employment and training	--	2	6	9	11	13	15	56
1028 Comparable treatment for disqualification	--	-20	-20	-20	-20	-20	-25	-125
1029 Disqualification for receipt of multiple food stamp benefits	--	-5	-5	-5	-5	-5	-5	-30
1030 Disqualification of fleeing felons	--	..	..	..	..	..	..	..
1031 Cooperation with child support agencies								
Option to require custodial parent cooperation								
Food Stamps	--	-5	-10	-15	-20	-20	-20	-90
Family Support Payments	--	5	10	10	15	15	15	70

(continued)

TABLE I  
FEDERAL BUDGET EFFECTS OF TITLE I, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
FOOD STAMPS AND COMMODITY DISTRIBUTION  
As ordered reported by the House Committee on Budget on June 18, 1996 06/26/96

Assumed date of enactment: October 1, 1996.

(outlays by fiscal year, in millions of dollars)								
Section	1996	1997	1998	1999	2000	2001	2002	1996-2002
1032 Disqualification relating to child support arrears	--	-5	-15	-25	-25	-30	-30	-130
1033 Work requirement	--	-130	-660	-720	-760	-790	-820	-3,880
1034 Encourage electronic benefit transfer system	--	*	*	*	*	*	*	*
1035 Value of minimum allotment	--	0	-30	-30	-30	-35	-35	-160
1036 Benefits on recertification	--	-25	-25	-25	-25	-30	-30	-160
1037 Optional combined allotment for expedited households	--	0	0	0	0	0	0	0
1038 Failure to comply with other means-tested public assistance programs	--	-25	-25	-25	-25	-25	-25	-150
1039 Allotments for households residing in centers	--	*	*	*	*	*	*	*
1040 Condition precedent for approval of retail stores and wholesale food concerns	--	0	0	0	0	0	0	0
1041 Authority to establish authorization periods	--	0	0	0	0	0	0	0
1042 Information for verifying eligibility for authorization	--	0	0	0	0	0	0	0
1043 Waiting period for stores that fail to meet authorization criteria	--	0	0	0	0	0	0	0
1044 Operation of food stamp offices	--	0	0	0	0	0	0	0
1045 State employee and training standards	--	0	0	0	0	0	0	0
1046 Exchange of law enforcement information	--	0	0	0	0	0	0	0
1047 Expedited coupon service	--	0	0	0	0	0	0	0
1048 Withdrawing fair hearing requests	--	0	0	0	0	0	0	0
1049 Income, eligibility, and immigration status verification systems	--	-5	-5	-5	-5	-5	-5	-30
1050 Disqualification of retailers who intentionally submit falsified applications	--	0	0	0	0	0	0	0
1051 Disqualification of retailers who are disqualified under the WIC program	--	0	0	0	0	0	0	0
1052 Collection of overissuances	--	-25	-30	-30	-25	-25	-30	-165
1053 Authority to suspend stores violating program requirements pending administrative and judicial review	--	0	0	0	0	0	0	0
1054 Expanded criminal forfeiture for violations	--	a/	a/	a/	a/	a/	a/	a/

(continued)



**TABLE I**  
**FEDERAL BUDGET EFFECTS OF TITLE I, THE WELFARE AND MEDICAID REFORM ACT OF 1996**  
**FOOD STAMPS AND COMMODITY DISTRIBUTION**  
 As ordered reported by the House Committee on Budget on June 18, 1996

06/26/96

Assumed date of enactment: October 1, 1996.

(outlays by fiscal year, in millions of dollars)

Section	1996	1997	1998	1999	2000	2001	2002	1996-2002
1055 Limitation of federal match	--	-2	-2	-2	-2	-2	-2	-12
1056 Standards for administration	--	0	0	0	0	0	0	0
1057 Work supplementation or support program	--	5	15	20	30	30	30	130
1058 Waiver authority	--	0	0	0	0	0	0	0
1059 Response to waivers	--	0	0	0	0	0	0	0
1060 Employment initiatives program	--	-1	-2	-2	-2	-2	-2	-11
1061 Reauthorization	--	0	0	0	0	0	0	0
1062 Simplified Food Stamp program	--	0	10	15	25	30	30	110
1063 State food assistance block grant	--	-75	-235	-435	-510	-605	-705	-2,565
1064 A study of the use of food stamps to purchase vitamins and minerals	--	0	0	0	0	0	0	0
1065 Investigations	--	0	0	0	0	0	0	0
1066 Food stamp eligibility	--	-15	-20	-25	-25	-25	-25	-135
1067 Report by the Secretary	--	0	0	0	0	0	0	0
1068 Deficit reduction	--	0	0	0	0	0	0	0
1071 Emergency Food Assistance program	--	300	300	300	300	300	300	1,800
1072 Food bank demonstration project	--	0	0	0	0	0	0	0
1073 Hunger prevention programs	--	0	0	0	0	0	0	0
1074 Report on entitlement commodity processing	--	0	0	0	0	0	0	0
1091 Provisions to encourage electronic benefit systems	--	0	0	0	0	0	0	0
Interactions among provisions	--	72	271	394	449	493	541	2,221

**TOTAL, FOOD STAMP PROGRAM – TITLE I**

Budget Authority	--	-1,845	-3,284	-3,834	-4,273	-4,772	-5,284	-23,292
Outlays	--	-1,845	-3,284	-3,834	-4,273	-4,772	-5,284	-23,292

NOTES: \* Less than \$500,000  
 Details may not add to totals because of rounding.

a/ Any proceeds from this provision would be used to reimburse law enforcement agencies or for retail compliance investigations. Thus, CBO estimates no net effect on the federal budget, though funds could be received in one year and not spent until a later year.

**TABLE II**  
**FEDERAL BUDGET EFFECTS OF TITLE II, THE WELFARE AND MEDICAID REFORM ACT OF 1996** 06/26/96  
**SUBTITLE A - RESTRUCTURING MEDICAID**  
**As ordered reported by the Committee on Budget on June 18, 1996**

As ordered reported by the Committee on Budget on June 16, 1996								7-Year
Assumed date of enactment: October 1, 1996.								
(By fiscal year, in millions of dollars)	1996	1997	1998	1999	2000	2001	2002	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	119,128	124,864	130,878	688,399
Special Rule	0	127	90	90	0	0	0	307
Supplemental for Illegal Aliens	0	0	500	600	700	800	900	3,500
Supplemental Umbrella Allotment	0	2,007	4,258	4,530	4,800	5,082	5,384	26,062
Supplemental for Native Americans	0	0	89	94	100	105	112	500
Total Outlays	96,086	105,582	113,868	118,966	124,727	130,852	137,273	827,354
Change in Outlays--Title II	0	501	-1,570	-7,400	-13,427	-20,660	-29,171	-71,727

**NOTES**

(1) The baseline includes legislative changes adopted in the Omnibus Consolidated Recissions and Appropriations Act (P.L. 104-134).

TABLE III-A							
FEDERAL BUDGET EFFECTS OF TITLE III, THE WELFARE AND MEDICAID REFORM ACT OF 1996							
SUBTITLE A -- WORK REQUIREMENTS							
As ordered reported by the Committee on Budget on June 18, 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

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

TABLE III-C  
FEDERAL BUDGET EFFECTS OF TITLE IV, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE C - CHILD CARE  
As ordered reported by the Committee on Budget on June 18, 1996.  
Assumed date of enactment: October 1, 1996.

06/25/96

(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	1996-2002
<b>Direct Spending</b>								
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
Repeal IV-A Child Care								
Budget Authority	0	-1,405	-1,480	-1,540	-1,595	-1,655	-1,715	-9,390
Outlays	0	-1,345	-1,475	-1,535	-1,590	-1,650	-1,710	-9,305
<b>Total Child Care--Title III, Subtitle C</b>								
Budget Authority	0	562	587	627	772	912	1,002	4,462
Outlays	0	290	499	547	637	727	772	3,473

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 III-D  
FEDERAL BUDGET EFFECTS OF TITLE III, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE D -- CHILD NUTRITION PROGRAMS  
As ordered reported by the House Committee on Budget on June 18, 1996

06/25/96

Assumed date of enactment: October 1, 1996.

(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	1996-2002
<b>DIRECT SPENDING</b>								
Special Assistance								
Budget Authority	--	*	*	1	1	1	1	4
Outlays	--	*	*	1	1	1	1	4
Summer food service program for children								
Budget Authority	--	-44	-44	-49	-49	-54	-59	-299
Outlays	--	-34	-44	-49	-49	-54	-59	-289
Child care food program								
Budget Authority	--	-110	-400	-450	-500	-560	-620	-2,640
Outlays	--	-95	-355	-445	-495	-550	-610	-2,550
Information clearinghouse								
Budget Authority	--	..*	..*	0	0	0	0	..*
Outlays	--	..*	..*	..*	0	0	0	..*
School breakfast program authorization								
Budget Authority	--	-10	-15	-22	-25	-22	-22	-116
Outlays	--	-8	-14	-21	-25	-22	-22	-112
Nutrition education and training programs								
Budget Authority	--	-10	-10	-10	-10	-10	-10	-60
Outlays	--	-10	-10	-10	-10	-10	-10	-60
<b>TOTAL, CHILD NUTRITION PROGRAMS -- TITLE III</b>								
Direct Spending								
Budget Authority	--	-174	-469	-530	-583	-645	-710	-3,111
Outlays	--	-147	-423	-524	-578	-635	-700	-3,007

## NOTES:

\* Less than \$500,000  
Details may not add to totals because of rounding.

TABLE IV-A  
FEDERAL BUDGET EFFECTS OF TITLE IV, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE A – TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT  
As ordered reported by the Committee on Budget on June 18, 1996

06/25/96

Assumes enactment date of October 1, 1996.

(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
<b>DIRECT SPENDING</b>								
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
Food Stamp Program								
Budget Authority	---	40	85	160	400	520	645	1,850
Outlays	---	40	85	160	400	520	645	1,850
Medicaid								
Budget Authority	---	a/	a/	a/	a/	a/	a/	a/
Outlays	---	a/	a/	a/	a/	a/	a/	a/
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 /b								
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	---	84	168	252	297	0	0	800
Outlays	---	84	168	252	297	0	0	800
Food Stamp Program								
Budget Authority	---	-5	-10	-15	-15	0	0	-45
Outlays	---	-5	-10	-15	-15	0	0	-45
Contingency Fund								
Family Support Payments								
Budget Authority	---	107	210	313	393	473	0	1,496
Outlays	---	107	210	313	393	473	0	1,496
Food Stamp Program								
Budget Authority	---	-5	-10	-20	-20	-25	0	-80
Outlays	---	-5	-10	-20	-20	-25	0	-80
Study by the Bureau of the Census /b								
Family Support Payments								
Budget Authority	---	10	10	10	10	10	10	60
Outlays	---	2	10	10	10	10	10	52
Research, Evaluations, and National Studies /b								
Family Support Payments								
Budget Authority	---	15	15	15	15	15	0	75
Outlays	---	3	15	15	15	15	12	75
Grants to Indian Tribes that received JOBS Funds /b								
Family Support Payments								
Budget Authority	---	8	8	8	8	8	8	46
Outlays	---	6	8	8	8	8	8	44

(Continued)

1990

TABLE IV-A  
FEDERAL BUDGET EFFECTS OF TITLE IV, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE A – TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT  
As ordered reported by the Committee on Budget on June 18, 1996 06/25/96

Assumes enactment date of 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	—	115	115	115	115	115	115	690
Outlays	—	115	115	115	115	115	115	690
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	200	200	200	200	800
Outlays	—	0	0	200	200	200	200	800
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 Foster Care Program								
Foster Care Program								
Budget Authority	—	0	0	10	25	35	45	115
Outlays	—	0	0	10	25	35	45	115

(Continued)

TABLE IV-A  
FEDERAL BUDGET EFFECTS OF TITLE IV, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE A – TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT  
As ordered reported by the Committee on Budget on June 18, 1996

06/25/96

Assumes enactment date of October 1, 1996.

(by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
<b>TOTAL DIRECT SPENDING, SUBTITLE A, BY ACCOUNT</b>								
Family Support Payments								
Budget Authority	—	-709	-1,130	-1,307	-1,671	-2,402	-3,399	-10,618
Outlays	—	-642	-1,084	-1,272	-1,636	-2,367	-3,362	-10,364
Food Stamp Program								
Budget Authority	—	30	65	125	365	495	645	1,725
Outlays	—	30	65	125	365	495	645	1,725
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/
<b>DIRECT SPENDING TOTAL, ALL ACCOUNTS—Title IV, Subtitle A</b>								
Budget Authority	—	-679	-1,065	-1,172	-1,281	-1,872	-2,709	-8,778
Outlays	—	-612	-1,019	-1,137	-1,246	-1,837	-2,672	-8,524

Note: 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.

a/ Title II of the bill limits the amount of funds provided to states under Medicaid.

b/ The bill appropriates funds for FY 1996 for the Temporary Assistance for Needy Families Block Grant; Grants to Indian Tribes that received JOBS funds; Study by the Census Bureau; and Research, Evaluations, and National Studies. 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.



1992

TABLE IV-8  
FEDERAL BUDGET EFFECTS OF TITLE IV OF THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE B - SUPPLEMENTAL SECURITY INCOME  
As ordered reported by the Committee on Budget on June 18, 1996

06/25/96

Assumed date of enactment: October 1, 1996.  
(By fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
<b>DIRECT SPENDING</b>								
<b>SSI Benefits to Certain Children</b>								
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
Permit recovery of Supplemental Security Income overpayments from Social Security benefits								
Supplemental Security Income								
Budget Authority	-	-45	-35	-30	-25	-25	-25	-185
Outlays	-	-45	-35	-30	-25	-25	-25	-185

1993

TABLE IV-B  
FEDERAL BUDGET EFFECTS OF TITLE IV OF THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE B - SUPPLEMENTAL SECURITY INCOME  
As ordered reported by the Committee on Budget on June 18, 1996

06/25/96

Assumed date of enactment: October 1, 1996.  
(By fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
<b>Tighten Restrictions on Payment of Social Security Benefits to Prisoners; Make Payments to Prison Officials Who Report Ineligible Recipients</b>								
Old-Age, Survivors and Disability Insurance—benefits saved								
Budget Authority	—	-5	-20	-35	-40	-40	-45	-185
Outlays	—	-5	-20	-35	-40	-40	-45	-185
Supplemental Security Income—benefits saved								
Budget Authority	—	-5	-10	-15	-15	-20	-20	-85
Outlays	—	-5	-10	-15	-15	-20	-20	-85
Old-Age, Survivors and Disability Insurance—payments to prison officials								
Budget Authority	—	3	7	8	9	9	11	47
Outlays	—	3	7	8	9	9	11	47
Supplemental Security Income—payments to prison officials								
Budget Authority	—	2	5	6	6	7	7	33
Outlays	—	2	5	6	6	7	7	33
<b>Subtotal, provision</b>								
Budget Authority	—	-5	-18	-36	-40	-44	-47	-190
Outlays	—	-5	-18	-36	-40	-44	-47	-190

**TOTAL DIRECT SPENDING—TITLE IV, SUBTITLE B**

Supplemental Security Income								
Budget Authority	—	-268	-1,315	-1,739	-2,079	-1,953	-2,293	-9,647
Outlays	—	-268	-1,315	-1,739	-2,079	-1,953	-2,293	-9,647
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	—	-2	-13	-27	-31	-31	-34	-138
Outlays	—	-2	-13	-27	-31	-31	-34	-138
<b>TOTAL, ALL ACCOUNTS</b>								
Budget Authority	—	-255	-1,173	-1,566	-1,855	-1,739	-2,057	-8,675
Outlays	—	-255	-1,173	-1,566	-1,855	-1,739	-2,057	-8,675

NOTE: The bill would also repeal section 1616 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.

a/ Proposed to be block-granted elsewhere in the bill.

b/ Assumes enactment of other food stamp changes contained in the bill.

c/ Proposed changes in Title II to the Medicaid programs 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.

TABLE IV-C  
FEDERAL BUDGET EFFECTS OF TITLE IV, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE C - CHILD SUPPORT ENFORCEMENT  
As ordered reported by the Committee on Budget on June 18, 1996

06/25/96

Assumes enactment date of October 1, 1996.

(outlays by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
<b>New Enforcement Techniques</b>								
State directory of new hires								
Family support payment	0	0	-1	-4	-6	-9	-10	-30
Food Stamp program	0	0	-1	-7	-12	-18	-21	-59
Subtotal	0	0	-2	-11	-18	-27	-32	-89
State laws providing expedited enforcement of child support								
Family support payment	0	0	0	-17	-35	-55	-77	-185
Food Stamp program	0	0	0	-6	-13	-21	-30	-70
Subtotal	0	0	0	-23	-48	-76	-107	-255
State laws concerning paternity								
Family support payment	0	-16	-18	-20	-22	-24	-26	-127
Food Stamp program	0	-3	-3	-4	-4	-4	-5	-23
Subtotal	0	-19	-21	-24	-26	-28	-31	-149
Suspend Drivers' Licenses								
Family support payment	0	-4	-9	-14	-19	-20	-21	-86
Food Stamp program	0	-2	-5	-8	-12	-12	-13	-52
Subtotal	0	-7	-14	-22	-31	-33	-34	-140
Adoption of uniform state laws								
Family support payment	0	10	2	-7	-11	-15	-21	-41
Food Stamp program	0	0	-1	-3	-4	-6	-9	-24
Subtotal	0	10	1	-9	-15	-22	-29	-65
<b>SUBTOTAL NEW ENFORCEMENT</b>	<b>0</b>	<b>-16</b>	<b>-36</b>	<b>-89</b>	<b>-139</b>	<b>-186</b>	<b>-233</b>	<b>-699</b>
<b>Lost AFDC Collections due to Reduced Cases Funded by Block Grant Funds</b>								
Family support payment	0	0	29	63	142	200	224	658
Food Stamp program	0	0	0	0	0	0	0	0
Subtotal	0	0	29	63	142	200	224	658
<b>Eliminate \$50 Passthrough and Exclude Gap Payments from Distribution Rules at State Option</b>								
Family support payment	0	-222	-236	-260	-285	-311	-336	-1,850
Food Stamp program	0	114	122	139	147	164	171	858
Subtotal	0	-108	-114	-121	-139	-147	-165	-793
<b>Distribute Child Support Arrears to Former AFDC Families First</b>								
Family support payment	0	0	62	69	76	148	183	539
Food Stamp program	0	0	-11	-12	-14	-27	-33	-86
Subtotal	0	0	51	57	63	122	150	442
<b>Hold States Harmless for Lower Child Support Collections</b>								
Family support payment	0	0	17	29	34	39	29	148
Food Stamp program	0	0	0	0	0	0	0	0
Subtotal	0	0	17	29	34	39	29	148

(continued)

1995

TABLE IV-C  
FEDERAL BUDGET EFFECTS OF TITLE IV, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE C -- CHILD SUPPORT ENFORCEMENT  
As ordered reported by the Committee on Budget on June 18, 1996 06/25/96

Assumes enactment date of October 1, 1996.

(outlays by fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
<b>Other Provisions with Budgetary Implications</b>								
Automated data processing development								
Family support payment	0	83	91	129	129	8	0	440
Food Stamp program	0	0	0	0	0	0	0	0
Subtotal	0	83	91	129	129	8	0	440
Automated data processing operation and maintenance								
Family support payment	0	12	55	52	52	46	40	257
Food Stamp program	0	0	0	0	0	0	0	0
Subtotal	0	12	55	52	52	46	40	257
Technical assistance to state programs								
Family support payment	0	44	47	46	48	47	45	278
Food Stamp program	0	0	0	0	0	0	0	0
Subtotal	0	44	47	46	48	47	45	278
State obligation to provide services								
Family support payment	0	0	0	3	11	22	39	75
Food Stamp program	0	0	0	0	0	0	0	0
Subtotal	0	0	0	3	11	22	39	75
Federal and state reviews and audits								
Family support payment	0	3	3	3	3	3	3	20
Food Stamp program	0	0	0	0	0	0	0	0
Subtotal	0	3	3	3	3	3	3	20
Grants to States for Visitation								
Family support payment	0	10	10	10	10	10	10	60
Food Stamp program	0	0	0	0	0	0	0	0
Subtotal	0	10	10	10	10	10	10	60
Food Stamp Block Grant Interaction								
Family support payment	0	0	0	0	0	0	0	0
Food Stamp program	0	-3	-5	-7	-7	-6	-5	-32
Subtotal	0	-3	-5	-7	-7	-6	-5	-32
<b>SUBTOTAL, OTHER PROVISIONS</b>	<b>0</b>	<b>149</b>	<b>201</b>	<b>237</b>	<b>247</b>	<b>131</b>	<b>133</b>	<b>1,098</b>
<b>TOTAL, BY ACCOUNT--Title IV, Subtitle C</b>								
Family support payment	0	-80	53	85	127	88	81	354
Food Stamp program	0	106	95	92	81	70	57	501
<b>TOTAL</b>	<b>0</b>	<b>26</b>	<b>148</b>	<b>177</b>	<b>209</b>	<b>157</b>	<b>138</b>	<b>855</b>

1996

TABLE IV-D  
FEDERAL BUDGET EFFECTS OF TITLE IV OF THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE D - RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS  
As ordered reported by the Committee on Budget on June 18, 1998

08/25/96

Assumed date of enactment: October 1, 1996.  
(By fiscal year, in millions of dollars)

	1996	1997	1998	1999	2000	2001	2002	7-year total
<b>DIRECT SPENDING</b>								
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
<b>TOTAL DIRECT SPENDING</b>								
Budget Authority	--	-1,059	-3,302	-3,461	-3,692	-3,345	-3,621	-18,480
Outlays	--	-1,059	-3,302	-3,461	-3,692	-3,340	-3,621	-18,465
<b>REVENUES</b>								
Earned income tax credit	--	28	29	29	30	30	31	177
<b>DEFICIT EFFECT</b>	--	-1,087	-3,331	-3,490	-3,712	-3,370	-3,652	-18,642

a/ Proposed changes in Title II 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 provisions of the bill.

d/ Section 4424 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.

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TABLE IV-F  
FEDERAL BUDGET EFFECTS OF TITLE IV, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE F - CHILD PROTECTION BLOCK GRANT PROGRAM AND FOSTER CARE, ADOPTION  
ASSISTANCE, AND INDEPENDENT LIVING PROGRAMS  
As ordered reported by the Committee on Budget on June 18, 1996.  
Assumed date of enactment: October 1, 1996.

06/26/96

(by fiscal year, in millions of dollars)								
	1996	1997	1998	1999	2000	2001	2002	1996-2002
<b>Direct Spending</b>								
Child Protection Block Grant								
Budget Authority	0	240	255	262	270	278	286	1,591
Outlays	0	96	224	268	265	273	281	1,407
Child Welfare Studies - a)								
Budget Authority	0	26	26	16	16	16	16	116
Outlays	0	11	26	18	16	16	16	103
Repeal Family Preservation and Support								
Budget Authority	0	-240	-255	-262	-270	-278	-286	-1,591
Outlays	0	-96	-224	-268	-265	-273	-281	-1,407
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
<b>TOTAL DIRECT SPENDING--Title IV, Subtitle F</b>								
Budget Authority	0	106	26	16	16	16	16	196
Outlays	0	77	40	18	16	16	16	183

Notes:

a) The bill appropriates funds for FY 1996 for child welfare studies. Because we assume an effective 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.

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TABLE IV-G  
FEDERAL BUDGET EFFECTS OF TITLE IV, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE G - CHILD CARE  
As ordered reported by the Committee on Budget on June 18, 1996.  
Assumed date of enactment: October 1, 1996. 06/25/96

(by fiscal year, in millions of dollars)	1996	1997	1998	1999	2000	2001	2002	1996-2002
<b>Direct Spending</b>								
New Child Care Block Grant								
Budget Authority	0	1,967	2,067	2,167	2,367	2,567	2,717	13,852
Outlays	0	1,680	2,027	2,132	2,277	2,427	2,532	13,075

Note: For states to draw down the child care block grant remainder, this subtitle requires them to maintain fiscal year 1994 spending.

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TABLE IV-H  
FEDERAL BUDGET EFFECTS OF TITLE IV, THE WELFARE AND MEDICAID REFORM ACT OF 1996  
SUBTITLE H - MISCELLANEOUS  
As ordered reported by the Committee on the Budget on June 18, 1996

06/25/96

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								
4903 Reduction in block grants to states for social services								
Social Services Block Grant								
Budget Authority	0	-280	-280	-280	-280	-280	-280	-1,680
Outlays	0	-250	-280	-280	-280	-280	-280	-1,650
4904 Denial of earned income credit on basis of disqualified income a/								
Budget Authority	0	-3	-169	-151	-146	-152	-160	-781
Outlays	0	-3	-169	-151	-146	-152	-160	-781
Revenue	0	1	26	27	23	23	25	125
Net Deficit Effect	0	-4	-195	-178	-169	-175	-185	-906
4905 Modification of adjusted gross income definition for earned income credit a/								
Budget Authority	0	-2	-106	-112	-119	-129	-138	-607
Outlays	0	-2	-106	-112	-119	-129	-138	-607
Revenue	0		18	21	22	25	28	114
Net Deficit Effect	0	-2	-125	-133	-141	-154	-166	-722
4906 Modification of earned income credit amount and phaseout a/								
Budget Authority	0	-1	-59	-61	-63	-69	-72	-326
Outlays	0	-1	-59	-61	-63	-69	-72	-326
Revenue	0	5	262	278	300	322	348	1,515
Net Deficit Effect	0	-6	-321	-339	-363	-391	-420	-1,841
Interactions among revenue provisions	0	0	10	-3	-3	-4	-6	-8

TOTAL, MISCELLANEOUS--TITLE IV, Subtitle H

Direct Spending								
Social Services Block Grant								
Budget Authority	0	-280	-280	-280	-280	-280	-280	-1,680
Outlays	0	-250	-280	-280	-280	-280	-280	-1,650
Earned Income Tax Credit								
Budget Authority	0	-6	-334	-324	-328	-350	-370	-1,714
Outlays	0	-6	-334	-324	-328	-350	-370	-1,714
TOTAL, ALL ACCOUNTS								
Budget Authority	0	-288	-614	-604	-608	-630	-650	-3,394
Outlays	0	-256	-614	-604	-608	-630	-650	-3,364
Revenues								
Revenues a/	0	6	316	323	342	366	395	1,748

a/ Estimates provided by the Joint Committee on Taxation. Components may not sum to totals because of rounding.



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CONGRESSIONAL BUDGET OFFICE

ESTIMATED COST OF INTERGOVERNMENTAL MANDATES

June 26, 1996

1. BILL NUMBER: Not yet assigned.

2. BILL TITLE: Welfare and Medicaid Reform Act of 1996

3. BILL STATUS:

As ordered reported by the House Committee on the Budget on June 18, 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 another. The bill would require states to maintain their overall level of expenditures for needy families at 75 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.

**Food Stamps.** The bill would require state agencies that administer the Food Stamp program to provide information to law enforcement agencies under certain circumstances. States would also be required to implement an electronic benefit transfer (EBT) system before October 1, 2002, unless the Secretary of Agriculture provides a waiver.

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 additional flexibility that the bill would grant states by replacing the current requirement that states maintain their AFDC payment levels at 1987 or 1988 levels with the 75 percent maintenance-of-effort requirement could save states money. At this time CBO is unable to estimate the magnitude of such savings.

**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 \$200 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	8	35	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	-217	-183	-269	-364	-442	-510

a. Net of technical assistance provided by the Secretary of Health and Human Services.

**Food Stamps.** The estimated direct costs of providing information to law enforcement agencies would be negligible. Because electronic benefit transfer (EBT) systems will be in place in most states by October 1, 2002, enactment of this provision would not result in additional costs.

(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.

A lot 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 Pass Through.** 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. Because states would be allowed to keep the first \$50 if this bill is enacted, they 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. 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. States would have the flexibility to make reductions in other parts of the affected programs. (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.) Consequently, it is not clear that the deeming requirements and verification procedures would constitute mandates. Any additional costs would also be at least partially offset by reduced caseloads in some programs.

#### **Food Stamps**

**Information to Law Enforcement Agencies.** Information that states would be required to provide law enforcement agencies is already collected as part of the process of determining eligibility for benefits. In addition, CBO assumes that law enforcement agencies would make very little use of this new power since this information is available elsewhere. Costs to states would thus be negligible.

**Electronic Benefit Transfer Systems.** The Department of Agriculture indicates that thirteen states currently have EBT systems in place (five statewide), another twenty-six are in the process of contracting for such systems, and the remaining eleven states are in the planning process. Based upon this information, CBO assumes that all states would have such systems in place by October 1, 2002, or would receive a waiver from the Secretary of Agriculture. Therefore, there would be no additional direct costs associated with this new mandate.

Other provisions in the bill would provide states with additional incentives to meet this requirement. The bill would exempt state and local government EBT programs from a regulation issued by the Federal Reserve Bank, known as Reg E, that determines the liability for lost or stolen electronic cards. States have been concerned about their potential liability for any lost or stolen electronic benefit cards. The bill would also provide states with additional flexibility in implementing an EBT system within certain broad limits.

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

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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. Even though the penalty against a state could be as large as 5 percent of its grant, CBO believes the Secretary of Health and Human Services would impose a far smaller penalty, about \$50 million annually for all states.

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 by fiscal year 2002. Some state and local governments may choose to step in and provide some or all of these lost benefits.

**Child Protection and Foster Care.** The bill would consolidate various mandatory and discretionary child protection and child abuse programs into block grants to the states. Funding levels for the new block grants would be similar to that of current programs. These program consolidations would provide states with flexibility in determining funding for specific activities and ease administrative requirements on states. The bill would also maintain the current open-ended entitlement to states for foster care and adoption assistance and the block grant to states for Independent Living. Finally, the bill would 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

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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.

**Child Nutrition.** The bill would eliminate funding for startup and expansion costs associated with the school breakfast program totaling \$10 million to \$25 million annually.

**Food Stamps.** The bill would allow states to receive funding for the Food Stamp program through a State Food Assistance Block Grant. Funding for this block grant would be at the greater of fiscal year 1994 expenditures or the average of fiscal year 1992 to 1994 expenditures. In exchange for accepting funding at this level, states would be given the flexibility to establish eligibility and benefit levels within broad parameters established in the bill. CBO estimates that overall funding to states opting for the block grant would be about \$1 billion less than under the current Food Stamp program.

**Miscellaneous.** This bill would reduce funding of the Social Services Block Grant to States by \$280 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 the fiscal year 2002. Some states may decide to offset the loss of federal funds with additional state funds, rather than by reducing benefits, restricting eligibility, or reducing 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.

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.



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States would also have greater flexibility in determining provider reimbursement levels, because the proposal would repeal the Boren amendment.

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: None.
- 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

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CONGRESSIONAL BUDGET OFFICE

ESTIMATE OF COSTS OF PRIVATE SECTOR MANDATES

June 26, 1996

1. **BILL NUMBER:** Not yet assigned.
2. **BILL TITLE:** Welfare and Medicaid Reform Act of 1996.
3. **BILL STATUS:**

As ordered reported by the House Committee on the Budget on June 18, 1996.
4. **BILL PURPOSE:**

The bill would reform and restructure the welfare and Medicaid programs, and provide for reconciliations pursuant to section 201 (a) (1) of the concurrent resolution on the budget for fiscal year 1997.
5. **PRIVATE SECTOR MANDATES CONTAINED IN THE BILL:**

Title IV contains several private sector mandates as defined in P.L. 104-4. Subtitle C 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.

Subtitle D 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

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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.

Subtitle F would require health-care facilities to promptly notify state agencies of any cases of suspected medical neglect of children.

Subtitles D and H 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 changing the way in which the credit is phased out.

**ESTIMATED DIRECT COST TO THE PRIVATE SECTOR:**

CBO estimates that the direct cost of the private sector mandates in the bill would be \$39 million in fiscal year 1997 and would total about \$2.2 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	34	345	352	372	396

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 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.

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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.

Based on information from the Joint Committee on Taxation, CBO estimates that the direct mandate cost of the changes in the Earned Income Credit would be \$34 million in 1997, rising to \$396 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:

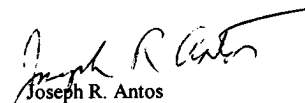
None.

8. PREVIOUS CBO ESTIMATE:

None.

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

### MISCELLANEOUS BUDGETARY INFORMATION

Clause 7(a) of rule XIII requires reports to include miscellaneous budgetary information. Although the bill provides for a net reduction in the Federal budget deficit over 6 years of \$125 billion, the bill provides for discrete increases in new budget authority for specific welfare programs and increases in revenue related to the Earned Income Tax Credit.

If the net increase in new budget authority is summed by title for each major program, the bill provides for a gross increase in new budget authority of \$2.3 billion in fiscal year 1997 and \$8.3 billion over 6 years (with no adjustment for overlapping provisions). Most of these increases are concentrated on Child Support Enforcement, Child Care, Foster Care, and in fiscal year 1997, Medicaid. In aggregate, these increases are more than offset by reductions from current law levels in Food Stamps, Child Nutrition, Supplemental Security Income, the Earned Income Tax Credit, and after fiscal year 1997, Medicaid.

Changes in the Earned Income Tax Credit will increase net revenue relative to current law levels by \$34 million in fiscal year 1997 and \$1.9 billion over 6 years.

Pursuant to clause 7(a)(3), a comparison of the total estimated funding level for each of the major levels with the appropriate levels under current law is displayed in Tables 1, 2, and 3 of the estimate prepared by the Congressional Budget Office. [See consolidated Congressional Budget Office Cost Estimate on page 1940.]

### INFLATION IMPACT STATEMENT

Clause 2(1)(4) of rule XI requires each committee report on a bill or joint resolution of a public character to include an analytical statement describing what impact enactment of the measure would have on prices and costs in the operation of the national economy. This bill will have no inflationary impact on prices and costs in the operation of the national economy.

### BUDGET COMMITTEE OVERSIGHT FINDINGS

Clause 2(1)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause (2)(b)(1) of rule X. The committee has no oversight findings.

### OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Clause 2(1)(3)(D) of rule XI requires each committee report to contain a summary of oversight findings and recommendations made by the Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted. The Committee on Budget has received no such findings or recommendations from the Committee on Government Reform and Oversight.

## COMMITTEE VOTES

Clause 2(l)(2)(B) of House rule XI requires each committee report to accompany any bill or resolution of a public character, ordered to include the total number of votes cast for and against on each rollcall vote on a motion to report and any amendment offered to the measure or matter, together with the names of those voting for and against.

On June 19, 1996, the committee met in open session, a quorum being present. The committee ordered reported the text of the Welfare and Medicaid Reform Act of 1996 pursuant to the reconciliation instructions contained in the conference report on H.Con.Res. 178, the Concurrent Resolution on the Budget for Fiscal Year 1997.

The following votes were taken by the committee:

1. Mr. Hobson made a motion that the committee order reported with a favorable recommendation the text of the Welfare and Medicaid Reform Act of 1996. The motion was agreed to by voice vote.

2. Mr. Sabo made a motion that the committee direct its chairman to request, on behalf of the committee, that if the rule for floor consideration of this bill provides for adding tax relief, that it be done in a manner that does not cause the bill to produce a budget deficit in any fiscal year that is greater than the deficit in the current fiscal year (according to the most recent CBO estimate). The motion was defeated by a rollcall vote of 15 ayes and 21 noes.

Member	Aye	No	Member	Aye	No
Mr. Kasich (Chairman) .....		X	Mr. Sabo .....	X	
Mr. Hobson .....		X	Mr. Stenholm .....	X	
Mr. Walker .....		X	Ms. Slaughter .....	X	
Mr. Kolbe .....		X	Mr. Coyne .....	X	
Mr. Shays .....		X	Mr. Mollohan .....	X	
Mr. Herger .....		X	Mr. Costello .....	X	
Mr. Bunning .....		X	Mrs. Mink .....	X	
Mr. Smith (TX) .....		X	Mr. Orton .....	X	
Mr. Allard .....		X	Mr. Pomeroy .....	X	
Mr. Miller .....		X	Mr. Browder .....	X	
Mr. Lazio .....			Ms. Woolsey .....	X	
Mr. Franks .....		X	Mr. Olver .....	X	
Mr. Smith (MI) .....		X	Ms. Roybal-Allard .....		
Mr. Inglis .....		X	Mrs. Meek .....		
Mr. Hoke .....		X	Ms. Rivers .....	X	
Ms. Molinari .....		X	Mr. Doggett .....	X	
Mr. Nussle .....		X	Mr. Levin .....	X	
Mr. Largent .....		X	Mr. Thompson .....		
Mrs. Myrick .....		X			
Mr. Brownback .....					
Mr. Shadegg .....		X			
Mr. Radanovich .....					
Mr. Bass .....		X			
Mr. Neumann .....		X			

3. Mr. Orton made a motion that the committee direct the chairman to request, on behalf of the committee, that the rule for floor consideration of this bill include language delaying the effective date of any tax relief to be included in such bill until CBO certifies that the budget will be in balance by the year 2002. The motion was defeated by a rollcall vote of 18 ayes and 22 noes.

2014

Member	Aye	No	Member	Aye	No
Mr. Kasich (Chairman) .....		X	Mr. Sabo .....	X	.....
Mr. Hobson .....		X	Mr. Stenholm .....	X	.....
Mr. Walker .....		X	Ms. Slaughter .....	X	.....
Mr. Kolbe .....		X	Mr. Coyne .....	X	.....
Mr. Shays .....		X	Mr. Mollohan .....	X	.....
Mr. Herger .....		X	Mr. Costello .....	X	.....
Mr. Bunning .....		X	Mrs. Mink .....	X	.....
Mr. Smith (TX) .....		X	Mr. Orton .....	X	.....
Mr. Allard .....		X	Mr. Pomeroy .....	X	.....
Mr. Miller .....		X	Mr. Browder .....	X	.....
Mr. Lazio .....		.....	Ms. Woolsey .....	X	.....
Mr. Franks .....		X	Mr. Olver .....	X	.....
Mr. Smith (MI) .....		X	Ms. Roybal-Allard .....	X	.....
Mr. Inglis .....		X	Mrs. Meek .....	X	.....
Mr. Hoke .....		X	Ms. Rivers .....	X	.....
Ms. Molinari .....		X	Mr. Doggett .....	X	.....
Mr. Nussle .....		X	Mr. Levin .....	X	.....
Mr. Largent .....		X	Mr. Thompson .....	X	.....
Mrs. Myrick .....		X	.....	.....	.....
Mr. Brownback .....		.....	.....	.....	.....
Mr. Shadegg .....		X	.....	.....	.....
Mr. Radanovich .....		X	.....	.....	.....
Mr. Bass .....		X	.....	.....	.....
Mr. Neumann .....		X	.....	.....	.....

4. Mr. Stenholm made a motion (1) that the committee request CBO to determine whether the level of funding provided in the welfare portion of the reconciliation bill is sufficient to finance the work and job training requirements established by that bill; and (2) if CBO determines that the level of funding is not sufficient, the committee directs the chairman not to request a rule to allow floor consideration of the reconciliation bill until the bill has been modified and CBO certifies that the modified bill provides funding sufficient to meet its work and job training requirements. The motion was defeated by voice vote.

5. Mr. Olver made a motion that the committee direct the chairman to request, on behalf of the committee, that the rule for floor consideration of this bill not waive or suspend the application of clause 5(c) of rule XXI of the Rules of the House of Representatives. The motion was defeated by a rollcall vote of 18 ayes and 21 noes.

Member	Aye	No	Member	Aye	No
Mr. Kasich (Chairman) .....		X	Mr. Sabo .....	X	.....
Mr. Hobson .....		X	Mr. Stenholm .....	X	.....
Mr. Walker .....		.....	Ms. Slaughter .....	X	.....
Mr. Kolbe .....		X	Mr. Coyne .....	X	.....
Mr. Shays .....		X	Mr. Mollohan .....	X	.....
Mr. Herger .....		X	Mr. Costello .....	X	.....
Mr. Bunning .....		X	Mrs. Mink .....	X	.....
Mr. Smith (TX) .....		X	Mr. Orton .....	X	.....
Mr. Allard .....		.....	Mr. Pomeroy .....	X	.....
Mr. Miller .....		X	Mr. Browder .....	X	.....
Mr. Lazio .....		X	Ms. Woolsey .....	X	.....
Mr. Franks .....		X	Mr. Olver .....	X	.....
Mr. Smith (MI) .....		X	Ms. Roybal-Allard .....	X	.....
Mr. Inglis .....		X	Mrs. Meek .....	X	.....
Mr. Hoke .....		X	Ms. Rivers .....	X	.....
Ms. Molinari .....		X	Mr. Doggett .....	X	.....
Mr. Nussle .....		X	Mr. Levin .....	X	.....
Mr. Largent .....		X	Mr. Thompson .....	X	.....
Mrs. Myrick .....		X	.....	.....	.....

# 2015

Member	Aye	No	Member	Aye	No
Mr. Brownback .....			.....		
Mr. Shadegg .....		X	.....		
Mr. Radanovich .....		X	.....		
Mr. Bass .....		X	.....		
Mr. Neumann .....		X	.....		

6. Mr. Pomeroy made a motion that the committee direct the chairman to request, on behalf of the committee, that the rule for consideration of this bill provide for an amendment to restore current law with respect to the cap on the excess shelter deduction when calculating food stamp benefits. This amendment would retain current law which provides for the removal of the cap on the excess shelter deduction after December 31, 1996. The additional spending incurred by this amendment would be offset by reductions in expenditures for corporate welfare. The motion was defeated by a rollcall vote of 16 ayes and 21 noes.

Member	Aye	No	Member	Aye	No
Mr. Kasich (Chairman) .....		X	Mr. Sabo .....	X	
Mr. Hobson .....		X	Mr. Stenholm .....	X	
Mr. Walker .....			Ms. Slaughter .....	X	
Mr. Kolbe .....		X	Mr. Coyne .....	X	
Mr. Shays .....		X	Mr. Mollohan .....	X	
Mr. Herger .....		X	Mr. Costello .....	X	
Mr. Bunning .....		X	Mrs. Mink .....	X	
Mr. Smith (TX) .....		X	Mr. Orton .....	X	
Mr. Allard .....		X	Mr. Pomeroy .....	X	
Mr. Miller .....		X	Mr. Browder .....		
Mr. Lazio .....		X	Ms. Woolsey .....	X	
Mr. Franks .....		X	Mr. Olver .....	X	
Mr. Smith (MI) .....		X	Ms. Roybal-Allard .....	X	
Mr. Inglis .....		X	Mrs. Meek .....		
Mr. Hoke .....			Ms. Rivers .....	X	
Ms. Molinari .....		X	Mr. Doggett .....	X	
Mr. Nussle .....		X	Mr. Levin .....	X	
Mr. Largent .....		X	Mr. Thompson .....	X	
Mrs. Myrick .....		X	.....		
Mr. Brownback .....			.....		
Mr. Shadegg .....		X	.....		
Mr. Radanovich .....		X	.....		
Mr. Bass .....		X	.....		
Mr. Neumann .....		X	.....		

7. Mr. Pomeroy made a motion that the committee direct the chairman to request, on behalf of the committee, that the rule for consideration of this bill provide for an amendment to preserve the current meaningful guarantee of nursing home care for those seniors who no longer have assets to pay for this care. The motion was defeated by a rollcall vote of 16 ayes and 21 noes.

Member	Aye	No	Member	Aye	No
Mr. Kasich (Chairman) .....		X	Mr. Sabo .....	X	
Mr. Hobson .....		X	Mr. Stenholm .....	X	
Mr. Walker .....			Ms. Slaughter .....	X	
Mr. Kolbe .....		X	Mr. Coyne .....	X	
Mr. Shays .....		X	Mr. Mollohan .....	X	
Mr. Herger .....		X	Mr. Costello .....	X	
Mr. Bunning .....		X	Mrs. Mink .....	X	
Mr. Smith (TX) .....		X	Mr. Orton .....	X	



## 2016

Member	Aye	No	Member	Aye	No
Mr. Allard .....			Mr. Pomeroy .....	X	
Mr. Miller .....		X	Mr. Browder .....		
Mr. Lazio .....		X	Ms. Woolsey .....	X	
Mr. Franks .....		X	Mr. Olver .....	X	
Mr. Smith (MI) .....		X	Ms. Roybal-Allard .....	X	
Mr. Inglis .....		X	Mrs. Meek .....		
Mr. Hoke .....		X	Ms. Rivers .....	X	
Ms. Molinari .....		X	Mr. Doggett .....	X	
Mr. Nussle .....		X	Mr. Levin .....	X	
Mr. Largent .....		X	Mr. Thompson .....	X	
Mrs. Myrick .....		X	.....		
Mr. Brownback .....			.....		
Mr. Shadegg .....		X	.....		
Mr. Radanovich .....		X	.....		
Mr. Bass .....		X	.....		
Mr. Neumann .....		X	.....		

8. Mr. Sabo made a motion that the committee direct the chairman to request, on behalf of the committee, that the rule for consideration of this bill allow members to offer substitutes and amendments consistent with the balanced budget substitutes offered during consideration of the budget resolution earlier this year. The motion was withdrawn.

### CHANGES IN EXISTING LAW

Clause 2(1)(3)(D) provides that reports include the text of statutes that are proposed to be repealed and a comparative print of that part of the bill proposed to be amended whenever the bill repeals or amends any statute. The required matter is included in the report language for each title of the legislative recommendations submitted by the appropriate authorization committees and reported to the House by the Committee on the Budget.

### UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act requires a statement of whether the provisions of the reported bill include unfunded mandates. The committee received a letter regarding unfunded mandates from the Director of the Congressional Budget Office. [See consolidated Congressional Budget Office Cost Estimate on page 1940.]

### VIEWS OF COMMITTEE MEMBERS

Clause (2)(1)(5) of rule XI requires each committee to afford a 3-day opportunity for members of the committee to file additional minority, or dissenting views and to include the view in its report. The views submitted are found at the end of this report. Although not technically required under rule XI, these views include those submitted by the authorizing committees that submitted the reconciliation recommendations that comprise the text of the bill.

## **COMMITTEE ON AGRICULTURE—MINORITY VIEWS**

House Democrats and Republicans, Senate Democrats and Republicans, and President Clinton share a common goal—all agree that welfare reform is urgently needed. Reform is needed not only for the recipients of welfare, who many times are trapped in a cycle of poverty from which they cannot escape, but also for the American taxpayers who deserve a better return on their investment in our future.

Over the last year, the food stamp provisions in the various welfare reform proposals have come to look very much alike. We have reached agreement on dozens of provisions. Yet, there continue to be serious policy differences on several key issues. It is our hope that there will yet be an opportunity to resolve these differences so that we might have real welfare reform that works for both low income families and American taxpayers. We want congressional passage of a bill that the President will sign.

Determining food stamp reform in the context of budget reconciliation causes us to lose sight of the people the Food Stamp Program is intended to serve. We must remember that our goal is to reform welfare in order to move people toward self-sufficiency. Reform by itself is a hollow word. Reform for reform's sake is meaningless. We aren't OMB, CBO, or GAO. We can't work in the vacuum of numbers only. We cannot let the bureaucrats with the green eye shades determine what path reform will take.

We are Members of Congress. It is our responsibility to put faces with these numbers. We must interject the human element into the process in order to ensure that real need is addressed in welfare reform. We must ensure that our children and the aged and disabled are not left unprotected. We must remember that a dollar spent now can actually result in saving thousands of dollars later, if we help produce a future taxpayer.

We must determine the policy that will move people toward self-sufficiency. This must be a policy-driven bill, not one that is driven by empty, faceless numbers that are wrong as many times as they are right.

Our constituents don't want a hand-out. They want jobs. They want economic development. They want the American dream. These are the people we must help. These are the people for whom we must redesign these programs to help them achieve their desire of becoming successful citizens.

That is not to say that significant budget savings cannot be achieved from real welfare reform. Over the years we have achieved significant savings by enacting strong antifraud and other measures. The Democratic substitute continues this effort by contributing to significant deficit reduction without jeopardizing our nutritional safety net. It saves over \$18 billion over a 6-year period. The majority's bill last year was intended to achieve \$16 billion

over 7 years. The minority bill this year goes well beyond that level of savings, and yet we have been accused of not supporting welfare reform.

We are particularly concerned that this bill will jeopardize the nutritional status of millions of poor families because of a basic misunderstanding of how the program works. The perception is that this program is out of control, that hundreds of thousands of families are added to the food stamp rolls every month. The reality is something very different. Over the last year and a half, as the economy has improved, food stamp participation has actually dropped by over 1 million people. This vital program is clearly filling a very real need. If the need isn't there, the program doesn't continue to expand, but if the need is there, the program is there to meet it.

The block grant provisions in this bill will set funding at levels well below that necessary to feed hungry families in times of recession or if food prices increase. If block grants had been chosen by all States in 1990, the Food Stamp Program would have served 8.3 million fewer children.

To assure adequate nutrition and the good health of our poor families, the calculation of food stamp benefits must take into account extremely high housing expenses. This bill limits this calculation, leaving poor families with children who pay more than half of their income for housing with less money to buy food. The provision will result in more hungry children. Additionally, the importance of a car to get to and from work and to look for work should be acknowledged by allowing the allowance for a car used for these purposes to be indexed annually. Work and work search would be encouraged by such a provision.

We all want families on welfare to be self sufficient. They want to be self sufficient. However, the way to make families self sufficient is not to deny them food stamps after 4 months if they are not working or in a training or workfare program while there is no requirement for States to provide a training or workfare slot. Eighty percent of the able-bodied recipients between the ages of 18 and 50 receive food stamps on a temporary basis already; they leave the program within a year. What these people need most is the opportunity to work—job training, or a job slot. This bill simply kicks them off the program, without a helping hand to find a job.

The American people are not mean-spirited. They do not want children to be poor and hungry. This bill will push 1 million children below the poverty line. How can we allow such a thing to happen? We must remember that we are reforming the programs that impact the most vulnerable of our constituents. We must remember the faces of the poor and hungry of our Nation.

Let the record show that the minority strongly supports welfare reform, but not at the cost of the Nation's poor families and children, not at the cost of the Nation's future.

K. DE LA GARZA.  
GEORGE E. BROWN, Jr.  
SANFORD D. BISHOP, Jr.  
SAM FARR.  
JOHN BALDACCI.  
EARL POMEROY.

2019

BENNIE G. THOMPSON.  
EARL F. HILLIARD.  
CHARLES W. STENHOLM.  
HAROLD L. VOLKMER.  
TIM JOHNSON.  
KAREN L. THURMAN.  
ED PASTOR.  
CAL DOOLEY.  
EVA M. CLAYTON.

## COMMITTEE ON COMMERCE—MINORITY AND ADDITIONAL VIEWS

### MINORITY VIEWS OF THE DEMOCRATIC MEMBERS OF THE COMMITTEE ON COMMERCE ON TITLE II, SUBTITLE A (MEDICAID)

“When I use a word,” Humpty Dumpty said, in rather a scornful tone, “it means just what I choose it to mean—neither more nor less.”

“The question is,” said Alice, “whether you can make words mean so many different things.”

“The question is,” said Humpty Dumpty, “which is to be master—that’s all.”

—Lewis Carroll, *Through the Looking Glass* (1872)

The portion of this bill reported by the Commerce Committee repeals the Medicaid program less than 4 months from now, and substitutes in its place a block grant of Federal funds to the Governors of the several States. The Majority says their block grant will provide a guarantee of health care to current Medicaid patients. We say it won’t. The central question is: does the word “guarantee” have any real meaning to the Majority?

Medicaid is America’s second largest health care program, covering almost as many Americans as Medicare. According to the Congressional Budget Office (CBO), Medicaid this year will cover 36.8 million poor senior citizens, disabled people, women, and children at a total cost of \$168 billion (\$80.8 billion Federal, \$72.2 billion State). By way of comparison, CBO estimates that Medicare will cover 37.5 million of Americans in fiscal year 1996 at a total cost to the Federal government of \$199 billion.

Medicaid is America’s largest single purchaser of nursing home services and other long-term care. The Federal government, through Medicaid, will spend an estimated \$30 billion on long-term care this fiscal year, the States another \$22.7 billion. Most of the long-term care paid for by Medicaid is delivered in nursing homes; Medicaid pays for more than half the nursing home care provided in this country. Of the 1.5 million nursing home residents nationwide, about two-thirds, or 1 million, are covered by Medicaid, mostly at State option.

This year more than 4 million adults 65 and over will receive services from Medicaid. About one-third of these are eligible because they are receiving cash assistance through the Supplemental Security Income (SSI) program. Others have lost nearly all their assets to the high medical or long-term care expenses that often accompany illness or disease later in life. An estimated 1.9 million seniors are eligible as Qualified Medicare Beneficiaries; their incomes are below 120 percent of the poverty level, and they receive Medicaid assistance to pay their Medicare premiums, co-insurance, and deductibles (but not nursing home care or prescription drugs).

About 6 million disabled individuals and about 7.4 million low-income women are eligible for Medicaid in 1996. And Medicaid covers about one-fourth of America's children—70 million in number. Under current law, by the year 2001, all American children under 18 who live in families with incomes below the Federal poverty line will be eligible for Medicaid coverage. Early preventive care, diagnosis, and treatment for poor children has traditionally been viewed as a sound investment, because it saves on much more expensive and longer term adult care and treatment later.

The Republicans argue that they can cut \$72 billion in Federal spending from Medicaid over 6 years—and as much as \$250 billion overall in combined Federal and State spending—and still provide a guarantee of health care in their block grant. They assert that their bill “guarantees” health care coverage for the same poor elderly, disabled, women, and children for whom Medicaid now provides. Can they be right?

Webster's Third New International Dictionary defines a “guarantee” as “an agreement by which one person undertakes to secure another in the possession of something; an expressed or implied assurance of the quality of goods offered for sale or the length of satisfactory use to be expected from a product offered for sale; something given by way of security.” It is, in other words, a contract—a promise made and kept. Where are the guarantees in this bill? Where, for example, does it assure that poor elderly Americans will get medically necessary nursing home coverage as they do now? Nowhere. In fact, the bill's fine print goes out of its way to shred any assurance that such coverage must be provided.

The bill repeals the health care guarantee in current law, found in Title XIX of the Social Security Act. The bill States that effective October 1—less than 4 months from now—neither Title XIX nor the Majority's new block grant may be construed “as providing an entitlement, under Federal law in relation to the Federal government, to an individual or person (including any provider) at the time of provisions or receipt of services.” The bill gives States virtually total discretion to specify the amount, duration, and scope of the benefits they offer to any individual. In short, there is absolutely no assurance that medically necessary physician, hospital, or nursing home care will be covered; there is no assurance, to paraphrase Webster's, that the “quality or the length of use to be expected” is guaranteed. The Republican guarantee, if it exists at all, is entirely illusory.

In case there might be any lingering doubt whether this bill guarantees anything to the elderly or other poor Americans, the bill explicitly prohibits any person from trying to enforce any such guarantee against a State in Federal court. This bill removes the private right of action that our elderly and vulnerable citizens have under current law. This right of action is not a provision of the Medicaid law itself, but rather is codified at 42 U.S.C. § 1983. Passed during the 1870s as a Reconstruction statute, section 1983 provides a private cause of action against anyone who, under color of State law, deprives an individual of “any rights, privileges, or immunities” secured by the Constitution and Federal laws. The Supreme Court has held that in enacting section 1983, Congress intended to override State legislation limiting individual Federal

rights, to offer a remedy where State laws were inadequate to protect those rights, and to provide a cause of action “where the remedy, although adequate in theory, was not available in practice.” Private parties have invoked section 1983 to challenge State implementation of a wide variety of Federal statutes. In other words, people who are not receiving a service or protection to which Federal law entitles them have a right of action in Federal court to secure that service or protection. If this bill is enacted, Medicaid beneficiaries will be denied that right.

The committee’s mark-up provides ample evidence that the Republicans have no intention of guaranteeing medical care to anyone. We offered several amendments that would have clarified the Republicans’ bill and put them on record as promising a real guarantee for Medicaid patients—a real Contract with America, for America’s most vulnerable citizens and their families. Over and over, we asked the Republicans simply to “put it in writing.” Over and over, they refused. We asked them to provide:

(A) *A real guarantee of coverage for the elderly needing nursing home care.*—The Republican bill repeals the current Federal guarantee of coverage for medically necessary nursing home services for eligible elderly individuals. The amendment would have fully restored the current law guarantee for elderly individuals who (1) require nursing home services and (2) meet the Medicaid eligibility standards in effect in the State as of June 1, 1996. It was defeated on a party-line vote.

(B) *A real guarantee of coverage for elderly Alzheimer’s victims.*—It was defeated on a party-line vote.

(C) *A real guarantee of coverage for veterans needing nursing home care.*—It was defeated on a party-line vote.

(D) *A real guarantee of coverage at least for those elderly beneficiaries now living in nursing homes.*—It was defeated on a party-line vote.

(E) *A real guarantee that the elderly can choose their own nursing home,* so long as the home is Medicaid-eligible, rather than having the Governor of a State make that decision for them. Even this amendment was defeated on a party-line vote.

(F) *A real guarantee of coverage for children.*—The Republican bill repeals the current law Federal guarantee of coverage for medically necessary physician, hospital, and related basic health services for poor children, including the guarantee of treatment services necessary to correct a condition identified during a medical screening under the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program. The amendment would have fully restored the current law guarantee for eligible children, especially by putting the “T” for Treatment back in EPSDT. It was defeated on a party-line vote.

(G) *A real guarantee of coverage for pregnant women and infants.*—It was defeated on a party-line vote.

(H) *A real guarantee of coverage for Native Americans,* to whom the Nation owes special obligations and responsibilities. This amendment, too, was defeated on a party-line vote.

And there were more amendments, including continuation of coverage for breast and cervical cancer services; continuation of parity in benefits for residents of rural areas; continuation of the current

section 1115 waiver program to allow States continued flexibility in trying new approaches to providing health care; restoration of current law minimum payment standards for hospitals, nursing homes, rural health centers, Federally qualified health centers, and managed care plans. These were all defeated along party lines.

The Republicans even defeated an amendment that would have curtailed fraud and abuse in at least two respects. The amendment restored existing limitations on States treating provider “donations” and taxes as State Medicaid funds for purposes of increasing their Federal dollar match, and it extended to State officials handling Federal block grant funds the same conflict of interest and ethics rules that now govern Federal officials. Instead, the Majority voted to order yet another 2-year study of these fraudulent State financing schemes. They ignored the conflict of interest problem altogether. Then, they “compromised” with themselves and chose to adopt an amendment that would allow the Secretary after the 2-year study is complete to waive the prohibition on these ripoffs. Governors will soon be returning to the Federal trough for health care money that they will use not for health care but to pave roads, build prisons, reduce State taxes, and make State deficits look smaller while the Federal deficit grows larger.

Our Republican colleagues last year proudly touted their “Contract with America.” This year’s Medicaid legislation, like their bill last year, clearly illustrates their unwillingness to maintain Medicaid’s 30-year old contract with the 36 million elderly and vulnerable Americans who depend on it. The Majority talks a good game about “guarantees,” but their bill provides none. Theirs is an empty promise, a contract full of loopholes. It does not fulfill a single promise—no real guarantee of long-term care for senior citizens; no real guarantee of health care for poor women and children, or disabled people; no assurance that health services will be provided fairly and equally throughout each State, or across the country. Instead of providing health security to people in desperate need, the Republicans want to provide money with few if any meaningful strings attached to the Governors in a block grant and let them spend it as they please.

At the same time, they are saying to middle-class families with elderly parents or grandparents in nursing homes, and to the other Americans served by Medicaid, that Congress has reneged on its commitment to help them. The Majority is saying, “You’re on your own.” Today approximately 40 million Americans have no health care coverage. The Republican plan will inevitably increase this number by taking away the real guarantee of health security for 36 million of America’s senior, disabled people, women, and children.

“Impenetrability! That’s what I say!”

“Would you tell me please,” said Alice, “what that means?”

“Now you talk like a reasonable child,” said Humpty Dumpty, looking very much pleased. “I meant by ‘impenetrability’ that we’ve had enough of that subject, and it would be just as well if you’d mention what you meant to do next, as I suppose you don’t mean to stop here all the rest of your life.”



2024

“That’s a great deal to make one word mean,” Alice said in a thoughtful tone.

“When I make a word do a lot of work like that,” said Humpty Dumpty, “I always pay it extra.”

“Oh!” said Alice. She was too much puzzled to make any other remark.

JOHN D. DINGELL.  
HENRY A. WAXMAN.  
EDWARD J. MARKEY.  
CARDISS COLLINS.  
BILL RICHARDSON.  
JOHN BRYANT.  
RICK BOUCHER.  
THOMAS J. MANTON.  
E. TOWNS.  
GERRY E. STUDDS.  
FRANK PALLONE, Jr.  
SHERROD BROWN.  
BART GORDON.  
ELIZABETH FURSE.  
PETER DEUTSCH.  
BOBBY L. RUSH.  
ANNA ESHOO.  
RON KLINK.  
BART STUPAK.  
ELIOT L. ENGEL.

ADDITIONAL VIEWS OF REPRESENTATIVE ELIZABETH  
FURSE TO H.R. 3507, MEDICAID RESTRUCTURING ACT

For a Congress which believes so strongly in innovation at the State level, I am disappointed the majority voted down an amendment in full committee to H.R. 3507 which would have preserved and protected the health care innovation that is already taking place in States all across America. My amendment would have given States which currently have a Section 1115 waiver the option of participating in the system created by H.R. 3507 or continuing to operate under the Section 1115 waiver program.

Oregon spent 4 years carefully constructing the Oregon Health Plan. The results have been startling. We have provided health care coverage to over 130,000 hardworking people. Our per capita health care costs are among the very lowest in the country. Access to medical care is keeping people healthier, improving the quality of life and saving thousands of dollars.

Consider the fact that the Oregon Health Plan has:

- Expanded coverage and controlled costs by emphasizing comprehensive care and early intervention using pre-paid health plans.

- Reduced welfare caseloads. Twenty percent of people who got off welfare returned to it in order to get health care coverage for their families. Oregon has enjoyed declining caseloads since the waivers were granted in 1993.

- Expanded health coverage to over 130,000 people who previously had no coverage, and fell through the cracks in eligibility criteria.

- Reduced cost shifting. During its first 12 months, Oregon hospitals reported a 30 percent decline in charity care.

- Created a health care delivery system that is remarkably efficient, providing comprehensive care at a cost per beneficiary that is 10 percent below the national average.

In their rush to reach budget targets in the Medicaid program, the bill before our committee would turn its back on States which have formulated their own health reforms. It would subject States that have already created efficient health care delivery systems to the same funding mechanisms as States which have done nothing to reduce their costs. In effect, H.R. 3507 punishes the States who couldn't wait to reform their health care systems.

I am gravely concerned that this bill would seriously jeopardize the health of the Oregon Health Plan. For example, according to my own Governor's office, this bill would punish Oregon for being at the forefront of health care reform. Under this bill:

- The Oregon Health Plan would start losing money in 1999, less than 3 years away.

- Oregon will face a \$400 million shortfall over the next 7 years.

Oregon will be helpless to respond following a natural disaster (like the floods which devastated Oregon in February of 1996) or an economic recession because the umbrella fund provides no real protection for the States.

When we last considered Medicaid reform in this committee, my Governor wrote to me and said "This bill would have immediate and disastrous consequences for Oregon." While the majority has attempted to make changes to many of the more glaring problems with Medicaid reform in general, such as backing off on their original proposal to repeal nursing home standards, H.R. 3507 continues to ignore the fact that a number of States in America have already reformed their Medicaid system. In many ways, the more things change, the more they stay the same.

In Oregon, we didn't ask for Medicaid waivers to do less (which is exactly what the Republican bill proposes to do); we asked for waivers to do more. In fact, our waiver has allowed Oregon to construct a plan which covers many things that basic Medicaid doesn't cover: dental services, hospice care, many diagnostic and screening services for adults, physical and occupational therapy, prescribed drugs, and most transplants. Unlike the Republican proposals, the comprehensiveness of care for people getting health coverage under Medicaid was assured before the plan could go forward.

My amendment would simply have given any State which has enacted health care reform under the Section 1115 waiver program the option of continuing their current program. Currently, there are nine States which operate a Medicaid reform plan under a section 1115 waiver program: Arizona, Delaware, Hawaii, Minnesota, Oklahoma, Oregon, Rhode Island, Tennessee, and Vermont. In addition, there are four States which have section 1115 waivers but are awaiting action by their State legislature: Massachusetts, Florida, Ohio (implementing July 1, 1996), and Kentucky.

I am disappointed that my amendment, which would have rectified this glaring oversight in H.R. 3507, was defeated on a party-line vote. States which have already reduced their costs, in partnership with a waiver from the Federal Government, should be able to continue their program if they so desire. We shouldn't turn the lights out on the health care innovation which has already taken place in America.

ELIZABETH FURSE.

## **COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES—MINORITY AND ADDITIONAL VIEWS**

### **MINORITY VIEWS ON COMMITTEE REPORT TO ACCOMPANY OPPORTUNITIES COMMITTEE WELFARE REFORM RECOMMENDATIONS**

#### **I. INTRODUCTION**

Fifteen months ago, this committee first considered welfare within the legislative vise grip of the first hundred days of the new Republican Majority. Since it was a central feature of the Republican "Contract With America," the bill was considered by this committee with virtually no opportunity for careful deliberation or bipartisan agreement. From the outset, the bill took a sharply partisan turn, in virtually every detail. No matter how sensible and balanced Democratic amendments were, they were summarily rejected by the Republicans during markup. Here are some examples of those amendments:

- An amendment to reverse massive cuts in the school lunch and school breakfast programs;

- An amendment to maintain current minimal safety and health standards for child care facilities;

- An amendment to require States to match Federal funds to pay for child care;

- An amendment to guarantee free school lunch for poor children;

- An amendment to restore the Abandoned Infants Assistance program;

- An amendment to apply welfare savings to pay for deficit reduction;

- An amendment to oblige the States to provide child care for parents required to go to work.

In the end, this committee reported out a partisan welfare bill with weak work requirements and punitive measures against the poor and against needy children. And, in the end President Clinton justifiably vetoed a harsh Republican welfare reform bill, citing, among other reasons, its grossly inadequate level of funding for work and child care, its end of the guarantee of foster care, and its abandonment of Federal child nutrition programs.

We appreciate the fact that, this time around, the committee's Majority has taken a more moderate and bipartisan approach with regard to its responsibility for welfare reform. Nevertheless, despite adoption of a bill that includes more temperate base provisions and remedial amendments, we remain opposed to the committee's final product. Once again, programs for the poorest in this country are being targeted to meet Republican budget priorities. Policy judgment about how best to improve welfare services are still not the driving force behind Republican welfare reform; the primary motive is to achieve more than \$50 billion in budget cuts.

Republican welfare reform continues to be “weak on work.” Without adequate funding for education, training, and employment, most of our Nation’s poor will be unable to avoid the welfare trap. Even before the adoption of amendments increasing work participation rates, the Congressional Budget Office (CBO) had already estimated that the new Republican proposal (H.R. 3507) is some \$9 billion short of what would be needed in fiscal years 1999 through 2002 to provide adequate money for States to carry out the work program. Moreover, the increase in the minimum work hours requirement, without a commensurate increase in child care funding, further deepens our apprehension about the viability of the work title.

While H.R. 3507 is far different from its predecessor, it contains many changes in child care, child nutrition, and child protection laws that were never fully aired in the normal deliberative process. No hearing was held in this committee on this dramatically different proposal. And, we are very much concerned that the committee completely ignored issues relevant to the eligibility of immigrants for programs under our jurisdiction. We cannot countenance such surrender of the committee’s jurisdiction.

We commend our Republican colleagues for steps taken to moderate this legislation and to encourage bipartisan give-and-take. By their about-face, they have validated the decision made by President Clinton to veto last year’s Republican version of welfare reform. The new bill’s increased funding for child care, preservation of child nutrition programs, and additional funding for work support the wisdom of the President’s earlier judgment.

We oppose this new version of welfare reform for many reasons. For instance, the committee’s product is still weak on work; funding levels for the work programs remain well below what will be necessary, notwithstanding the Castle Amendment that provides a \$3 billion authorization for supplemental work funding in fiscal year 1999.

In addition, this revised proposal fails to adequately address child care needs of parents who may face having to leave their children home alone or in dangerous and unsuitable child care settings. Welfare reform need not produce such untenable choices. The failure of the committee to adopt the Mink amendment, which would have prevented States from penalizing parents of children under the age of 1 who cannot secure child care, further weakens the work requirements.

Finally, the upheaval of child protection systems caused by creation of the Child and Family Services Block Grant will cause insecurity for providers and recipients of current Federal child protection services. Along with other Federal programs, the Abandoned Infants Assistance Act and the Child Abuse Prevention and Treatment Act (CAPTA) provide invaluable protection and support services for the most vulnerable children. We fail to understand what restructuring these programs has to do with welfare reform, and note that neither the bipartisan Castle/Tanner bill, the Democratic “Deal” substitute, nor the administration’s welfare reform plan proposed this kind of drastic overhaul.

True welfare reform can never be achieved, and welfare dependency will never be broken, unless we provide adequate education,

training, and child care, and jobs that pay a livable wage. Anything short of that does great disservice to our national sense of compassion and our moral responsibility to help the poor help themselves.

## II. WORK REQUIREMENTS

Essential to the success of welfare reform is the delivery of job training and employment opportunities in jobs that pay a livable wage. It is indeed ironic that our Republican colleagues insist on “tough” work requirements, and yet they fail to adequately finance the true cost of that objective. The folly of the original Republican work requirements in H.R. 3507 has been exacerbated by the adoption of the Talent amendment to increase the work participation rates. In the end, States will face substantial unfunded mandates as they struggle to meet new, federally mandated work participation requirements imposed by the Republican proposal. Contrary to the statement in the Majority’s views suggesting that they have met the National Governors Association’s concerns regarding realistic work goals, we fail to see how the Nation’s Governors could be at all pleased with the committee’s shift toward even more unrealistic work requirements. The CBO had already calculated a multi-billion dollar short fall in H.R. 3507, as introduced. The Castle amendment authorizing \$3 billion more work funding for fiscal year 1999 offers some relief. However, the current attitude of Republican House appropriators with respect to training America’s workforce leaves us to question whether the Castle amendment will ever be financed.

In their views, the committee’s Majority correctly notes the critical role of preparing welfare recipients for work, in particular, with respect to the importance of job search activities. And, yet strangely, the committee adopted an amendment slashing the number of weeks that job search can be credited as a permissible work activity from 12 weeks to 4 weeks. The Martinez amendment, providing that 12 weeks of job search activities can count where unemployment is above the national average, restores some value to the import of job search efforts under the committee’s plan. Still, it should not have been necessary to reverse the deviation from the original bill’s coverage for 12 weeks, and the Martinez amendment only partially corrects a glaring mistake.

We commend our colleague Tim Roemer (D-IN) for the amendment regarding individual responsibility plans. We are mystified that 10 committee Republicans opposed an amendment that codifies the sensible notion that both individuals and the government (Federal and State) have reciprocal obligations. Individuals should clearly understand their duty to choose work over welfare (and the consequences of their intentional failure to make the right choice). And, the State should clearly define and meet its obligations to help those individuals who desire to stay off welfare. We think it all the more necessary that such a plan be reduced to *writing*. And, we think the State’s “sole discretion” to exercise authority over these plans concerns *how*, not whether, the State shall carry out such “contracts.” In their effort to maximize State “flexibility” over welfare, Republican committee members resisted such clarifications, and the Majority report skirts these issues altogether. Individual responsibility plans should be clear, enforceable agreements;

otherwise, their value is dubious and they will be subject to the vagaries of oral representations, vague memories, and State welfare personnel changes.

We are disappointed that our Republican colleagues rejected amendments to the work title of the bill which would have ameliorated hardships posed by the bill for young parents facing entry (or re-entry) into the job market. States should not have the option of terminating benefits for a parent of a child younger than 1 year old. Our Republican colleagues also should have supported Democratic amendments to guarantee health care and minimum wage protections for recipients who engage in work activities. Without such protections, the viability of the work requirements is undermined. The amendments offered by Representatives Mink (D-HA) and Becerra (D-CA) on these issues, respectively, would have strengthened the bill.

### III. CHILD PROTECTION

Child protection systems across the country are overwhelmed by the crisis facing families and their children. Despite Federal programs, State and local efforts, increased media attention, and public awareness, child abuse and neglect continues to be a significant problem in the United States. The number of substantiated cases of child abuse and neglect rose from 798,318 in 1990 to 1,011,626 in 1994—an increase of almost 27 percent during that 5-year period. In its April 1995 report on child abuse and neglect fatalities, the U.S. Advisory Board on Child Abuse and Neglect reported that almost 2,000 infants and young children die from abuse and neglect at the hands of parents and caretakers each year. The vast majority of these children were under the age of 5 when they died, and 45 percent were under the age of 1. It is critically important that child protection agencies increase their efforts to help children earlier in their lives and to move them into new permanent families when they cannot safely remain at home or be reunited with their families.

We welcome the decision by the Majority to abandon their earlier proposal to eliminate the Federal guarantee of foster care and adoption assistance for children who cannot live safely at home. We continue to be concerned, however, that the remaining block grants in their welfare bill also jeopardize children's safety by eliminating any Federal assurance of prevention and by abdicating Federal leadership in combating abuse and neglect.

Traditionally, this committee has authorized funds for important research and demonstration initiatives on behalf of maltreated children that have helped advance the protection of children in States across the Nation. This important role would be undercut by the Child and Family Services Block Grant which would reduce, from 50 percent to 12 percent, the percentage of child abuse and neglect funds currently available for research and demonstration activities (assuming funding for the programs replaced by the block grant would be retained at their fiscal year 1997 levels). These research and demonstration activities help to provide new approaches to solving child welfare problems. The Majority proposes relinquishing the important Federal leadership role in funding research, program demonstrations, technical assistance, and training that serves as

an efficient means of enabling all States to improve their practices in preventing and treating child abuse and neglect.

We strenuously object to the Majority's attempt to justify its overhaul to child protection laws, particularly its rewrite of the Child Abuse and Prevention Treatment Act (CAPTA), by placing blame on the Federal Government for the current crisis in many State child protection systems. While we readily acknowledge that millions of children are left woefully unprotected and unaccounted for, no credible evidence exists to support the assertion that Federal attention and "micro-management" interfere with State protection of abused and neglected children. Nearly two dozen States and the District of Columbia have been found by various courts to be in violation of Federal and State child protection laws. Shifting greater overall responsibility to the States and greatly dismantling Federal responsibility is both illogical and irresponsible. Staggering increases in the number of abused and neglected children, sharp increases in the number of children in foster care, and disturbing rises in the levels of child runaways and homeless children have not been caused by Federal programs. Giving greater responsibility to the States simply defies logic. Obviously, many courts, by appointing receivers to oversee child protection systems in many States, have reached a far different conclusion than our Republican colleagues. For the committee's Majority to play the blame game is counter-productive.

Proposed Republican cuts in a myriad of safety nets that are designed to protect poor families and their children increase the likelihood of further strains within those families. While child abuse, neglect, and domestic violence transcend economic status, there is little reason to doubt that increased financial pressures on already struggling families further jeopardize the condition of our Nation's children.

The block grants proposed in the new Republican welfare plan would eliminate any assurance of Federal funding for prevention. Demands for crisis services will continue to strain available resources, and families are likely to continue to get no help until their problems bring them to the attention of the child protection system. Efforts made in the past several years to consolidate and streamline programs to direct attention and resources on family-focused, community-based approaches to preventing child abuse and neglect will be undercut.

Recent data suggest that 24 percent of the families where abuse has occurred receive no services at all. Thus, it is likely that families who could benefit from prevention services will once again be told that the system can only help them once their children's safety has been jeopardized. Preventive services that help fathers reconnect with their children, offer parent education initiatives, and provide special services for children with disabilities, will again take a back seat to the immediate crisis at hand.

We are relieved that the Majority supported amendments offered by committee Democrats to remedy apparently inadvertent errors in the original chairman's mark, including (1) omission of the Abandoned Infants Assistant Act from the transitional protections for current grantees and recipients of child protection services under programs otherwise targeted for repeal, and (2) restoration



of the Federal requirement under CAPTA that States provide legal guardians (guardian ad litem) for abused and neglected children in court proceedings.

In the final analysis, new approaches to the serious problem of child abuse should not be tacked on a welfare bill. In fact, other changes in the welfare bill will jeopardize the safety and health of large numbers of poor children. The risks are too severe for Congress to alter the child protection systems at the same time. The complex and long-standing protections for abused and neglected children are far too important to be rewritten without separate consideration. A welfare reform bill should reform welfare, not try to fix the child protection system.

#### IV. CHILD CARE

In 1994, 60 percent of women with children younger than 6, and 57 percent of women with children younger than 3 were in the labor force. In 1991, more than 7 million children younger than 5 whose mothers were employed were cared for by someone other than a parent. In 1994, 36 States reported keeping child care waiting lists. Eight of those States reported lists of at least 10,000 waiting children.

Last year's version of Republican welfare reform provided extraordinarily inadequate funds to support child care. Fortunately, the new committee bill sharply breaks from that embarrassing legislative legacy by providing greater funds for child care. It restores the critical Federal mandate that States establish and enforce health and safety standards at child care centers. In light of the additional pressures this bill will have on already overburdened child care systems, welfare reform will collapse unless welfare recipients on the road to work have access to safe and readily available child care.

We are deeply worried that the Talent amendment to increase the minimum average number of work hours will destabilize child care funding and, in particular, threaten funding for at-risk and transitional child care for poor working families not on welfare. Our concerns are most warranted. According to a recent report by the Children's Defense Fund, States already experimenting with welfare reform are shifting significant parts of child care assistance budgets away from the working poor, to give more to welfare families. The plan adopted by the committee's Majority carries with it the same likely shift in child care funding priorities as States strive to meet new Federal participation rates to avoid incurring non-compliance penalties.

Finally, we note that H.R. 3507 contains a 20 percent cut in the Title XX Social Services Block Grant. Because most States use Title XX funds to help finance child care, this cut negates the increased child care funding in the new Republican proposal.

#### V. CHILD NUTRITION

The Majority's views on the changes it proposes in child nutrition programs is disturbing insofar as it fails to acknowledge the tremendous benefits achieved by the school lunch, school breakfast, summer feeding, child care and food programs in reducing hunger among our Nation's children, and by the WIC program in improv-

ing maternal and infant health and nutrition. Sadly, once again, the Majority's views blame the Federal Government for impeding State progress.

Last year, the committee Majority entertained rather extreme approaches to these nutrition issues. Fortunately, they have abandoned their proposed elimination of the Federal school lunch program. And, they no longer are fighting to grant broad power to States to transfer funds from child nutrition programs to other State priorities. Nevertheless, we continue to have objections to elements of this year's nutrition changes.

The proposed cuts in the Summer Food Program are far too deep and would seriously jeopardize the continued viability of this program. The current plan would reduce the Federal reimbursement for summer lunches by 35 cents, per meal. The Majority contends that the reimbursement for lunches in the Summer Food Program is higher than that for lunches served during the school year. However, the Majority fails to consider the fact that sponsors and other organizations that operate the Summer program incur higher per-meal costs in operating this program. The summer lunches cost more because the number of lunches served is lower than the number of lunches served during the regular school year (there is no benefit derived from the same economies-of-scale). Moreover, sponsors of the summer program may have to pay custodial costs to open school buildings during the summer. Rather than bring the cost of the Summer Food Program in line with the regular school year, the cuts imposed by the Majority necessarily come at the expense of children who rely on these summer meals.

A survey of summer food sponsors across the country by the Food Research and Action Center (FRAC) indicates that reductions in meal reimbursement rates will cause a 30 to 35 percent drop in the number of sponsors. We support increasing the participation rate in the Summer Food Program, not diluting it. Currently, many low-income areas have no Summer Food Program because no school or nonprofit organization has stepped forward to operate one. While 12 million low-income children receive free school lunches during the school year, only 2 million low-income children receive meals through the Summer Food Program. The Summer Food Program continues the school lunch program for poor children in many poor urban and rural areas during summer months when school is out. This program is as critical to the health of children as the school lunch program.

The committee Majority has developed a two-tier reimbursement structure for the Child and Adult Care Food Program. The new structure provides lower reimbursements for meals served to children in family day care homes operated in middle and upper income areas. While the Majority would like to believe that this cut will have no adverse affect on low-income children, that is simply not the case. To participate in this nutrition program, family day care homes must apply through a sponsoring organization. The sponsoring organizations apply to the States for the meal reimbursements on behalf of the homes and receive a Federal payment to defray their administrative costs. This payment is based on the number of family day care homes a sponsoring organization serves. If cuts proposed by the committee's plan cause a substantial drop

in the number of day care homes that participate in this program, sponsoring organizations will be forced to discontinue participation, as well. And if sponsoring organizations drop out, many homes in poor areas will be shut out of the program because they will not have a sponsoring organization through which to work.

#### VI. IMMIGRATION

Starkly absent from the Majority action (and in its committee views) is any attempt whatsoever to address the grave problems in the immigration provisions of H.R. 3507. As stated in our introduction, we object to the “waiver” of committee jurisdiction over consideration of the eligibility of immigrants for the child nutrition and education programs long under the committee’s jurisdiction. It is our responsibility, because it is within our expertise and authority, to make the difficult policy decisions concerning such matters.

Most disturbingly, H.R. 3507 dangerously proposes to deny subsistence benefits for poor immigrants; nearly all of the savings achieved would come from denying benefits to *legal* immigrants. Perversely, H.R. 3507 would pose harm to U.S. citizen children by denying WIC benefits to illegal immigrant mothers. This kind of policy is unconscionable and pernicious. The committee should have debated these critical policy concerns in the context of our markup, rather than punting the issue to others to carry the ball.

The child nutrition proposals in H.R. 3507 relative to the eligibility of undocumented immigrant children for school lunch and school breakfast will turn teachers and administrators into quasi-immigration officers as they try to enforce prohibitions and restrictions on food assistance for these children. An enormous unfunded mandate would be shifted to the States and their public schools. We remain hopeful that the final Republican welfare plan will include immigration provisions much closer to what was in the Democratic “Deal” alternative concerning such eligibility issues. But, this committee should be making those policy decisions.

WILLIAM L. CLAY.  
DALE E. KILDEE.  
MATTHEW G. MARTINEZ.  
PATSY T. MINK.  
XAVIER BECERRA.  
CARLOS ROMERO-BARCELO.  
EARL BLUMENAUER.  
GEORGE MILLER.  
MAJOR R. OWENS.  
DONALD M. PAYNE.  
BOBBY SCOTT.  
LYNN C. WOOLSEY.  
CHAKA FATTAH.

## ADDITIONAL VIEWS OF MR. REED

In the Spirit of bipartisanship, coupled with the positive amendments adopted in committee and the hope that the House Majority actually wants a welfare plan that the President will sign, I supported the committee's limited welfare reform bill. However, if the committee's agreements are weakened, or this legislation is combined with \$72 billion in Medicaid cuts, or this legislation fails to protect children, or the Majority refuses to work in a bipartisan manner, the bill will not have my support on the House floor.

I offered an amendment during consideration of the bill similar to the work requirement provisions included in last year's Democratic alternative on welfare reform. At first, the committee Majority rejected my amendment on procedural grounds. However, after minor changes to address the Majority's concerns, I was permitted to offer my comprehensive workfare amendment.

Individual responsibility and real work requirements are at the heart of my amendment. Under my amendment, recipients must sign an individualized responsibility plan which requires them to begin a job search immediately and prohibits them from refusing a job. In addition, unlike the Republican bill, my amendment creates a workfare program, which provides recipients with a job or requires them to engage in community service when no private sector job is available. Unfortunately, my amendment lost by a close 17 to 22 vote.

During committee consideration of the bill, however, a number of important improvements were made to the committee's original proposal, which bespoke a willingness to compromise and improve the bill.

Indeed, the individual responsibility contract provision of my amendment was adopted by the committee. My Democratic colleague, Mr. Roemer, offered an amendment which would require recipients of assistance to sign an individual responsibility contract stating the steps that individual will take to find a job. This is a positive step forward.

In addition, an amendment was adopted that would provide \$3 billion in supplemental funding to help States operate work programs. This amendment takes into account the fact that jobs are not readily available across this Nation. While this amendment was not connected to a workfare program, as I would prefer, it was a movement in the proper direction.

Furthermore, the bill contains \$14 billion for child care, an increase over current law by \$3.6 billion over 6 years. The committee also adopted an amendment to ensure that children up to age 11 have either direct parental care or other child care. I wish the committee had also provided better access to child care for people trying to make the transition to work, and I want the bill to include such language when it is considered on the House floor.

I also remain strongly concerned with the level of resources for work and child care in the bill, and I believe that the Majority must address this shortfall in order to actually enact real welfare reform.

Lastly, the bill presented to the Opportunities Committee was a vast improvement over last year's monstrosity which block granted the school lunch program. While there are changes made to child nutrition programs, it is within the Majority's power to work in a bipartisan manner to address this and other issues.

Based on these amendments and my hope that the bill itself will be improved before it comes to the floor, I voted for the bill.

While it is an arcane matter that many citizens are unaware of, the bill considered by this committee is only a limited portion of a welfare reform package. The bulk of welfare reform, including changes to the AFDC program and Food Stamps, is under the jurisdiction of the Ways and Means Committee and the Agriculture Committee, respectively. In addition, at present, it is the Majority's intent to tie welfare reform to \$72 billion in Medicaid cuts and the elimination of the guarantee of health coverage for our Nation's disabled population. This means that the Opportunities Committee and hence this bill is not the complete nor final say on welfare reform. It could also portend that the Majority may not continue to work in a bipartisan fashion.

It is vital that we reform the welfare system. We must pass a responsible reform package that instills individual responsibility and moves people off welfare and into work. However, we must provide support for the disabled, ensure that children do not suffer for the shortcomings, real or imagined, of their parents, and provide child care for those with young children. A welfare reform bill must also take into account the fact that jobs are not readily available in many parts of this Nation, including Rhode Island, by providing a workfare structure and adequate funding for work programs. I believe that this is the type of welfare reform that the American taxpayers want.

JACK REED.

## COMMITTEE ON WAYS AND MEANS—DISSENTING VIEWS

The budget resolution for fiscal year 1997 adopted on June 12, 1996, by the Republican majority in the House of Representatives calls for passage of three budget reconciliation bills before Congress adjourns in the fall. The first of these measures is to be a bill that pairs \$53 billion in welfare spending reductions with \$72 billion in Medicaid reductions.

On June 12, working from the text of the new Republican welfare reform bill (H.R. 3507), the Committee on Ways and Means considered and ordered reported to the Budget Committee its welfare reform recommendations. These recommendations have since been incorporated into a budget reconciliation bill by the Committee on the Budget, for which this report has been written.

Sadly, we are forced to conclude that the Republican bill is still too tough on kids, sets up a work program that just won't work, and lets the States raid the Federal Treasury without delivering much in return.

Ironcially, much of today's welfare news is good:

There are fewer welfare and food stamp recipients today than when President Clinton took office. Welfare rolls are down by nearly 10 percent—that's 1.3 million fewer welfare recipients today than when President Bush left office. And, there are more than one million fewer food stamp recipients, too.

The poverty rate is down. Although still unacceptably high (14.5 percent of all Americans and 21.8 percent of all children lived in poverty in 1994), the number of Americans in poverty went down between 1993 and 1994 by 1.2 million people—after four straight years of increases.

Teen pregnancy rates are lower in most States. In 30 of the 41 States that report statistics teen pregnancy rates are down. Teen birth rates have dropped as well.

Child support collections have grown. Collections grew by 40 percent from 1992 to 1995, a million more families were served, and paternity establishments are up.

And, welfare reform is alive and well in the States. Forty States are conducting welfare reform demonstrations approved by President Clinton. No President has been as responsive as Bill Clinton to the Governors' desire to test new ideas. As a former Governor, he knows the problems they face and has cut through Federal red tape to help them—regardless of political party.

That's all good news for the President. It's even better news for American families.

But, unfortunately, we haven't made much progress on national welfare reform. Partisan politics seems to have gotten in the way. That's a shame.

President Clinton has twice sent Congress welfare reform proposals. He has sent clear signals about the kind of reform he will sign into law. He wants a bill that requires work, promotes responsibility, and protects children. He would impose tough time limits and work requirements, provide more funding for child care, require teen parents to live at home and stay in school, and crack down on child support enforcement. That's real welfare reform.

He vetoed the Republican bill (H.R. 4) because it was not real welfare reform. He rejected H.R. 4 because:

It was weak on work.—It did too little to move people from welfare to work, did not guarantee child care, and gutted the earned income tax credit.

It was tough on children.—It made unacceptably deep cuts that undermined child welfare, school lunches, and aid for disabled children.

It was a step backward in our efforts to get health care coverage to all Americans.—It eliminated the guaranteed medical coverage that single parents need to move from welfare to entry-level jobs.

Rather than work with the President to resolve these problems, the Republicans chose to spend 6 months criticizing his veto and insisting that the Republican conference agreement was the only way to reform welfare. Thanks to the Nation's Governors, a debate that seemed to have reached a stalemate revived, and we are trying again. President Clinton has welcomed the bipartisan National Governors' Association proposal. He has set only two conditions. He said:

Don't link welfare to Medicaid changes that cut coverage to children, to pregnant women, to the elderly, and to disabled adults.

Don't raise taxes on the working poor by cutting the earned income tax credit.

We remain skeptical about whether our Republican colleagues want true bipartisan compromise. Admittedly, this new Republican bill corrects some of the worst mistakes of the vetoed bill—confirming that the President was right to say NO to the last Republican welfare plan.

But it looks to us like the Republicans want to make certain that this bill is also unacceptable to the President and to Democratic Governors. Despite President Clinton's warning, our Republican colleagues plan to link welfare reform to deep Medicaid cuts, have retained the EITC cuts, and have refused to guarantee child care for parents going to work. They also cut welfare spending by \$10 billion more than the Governors' had agreed to. That doesn't sound hopeful to us.

We want one point to be clear. We support welfare reform. So does President Clinton. But we also want to make sure that needy children aren't the victims of excessive election-year posturing.

Real welfare reform gives poor children a safety net on which to rely. It makes certain that children are not punished for the mistakes of their parents.

Real welfare reform also makes certain that States deliver on their commitment to protecting children—that kids aren't left holding an empty bag when powerful interests pressure State govern-

ments to spend limited resources on nursing homes—or roads—or schools—or prisons.

Real welfare reform also means tough, but fair, work requirements. It means making sure everyone who is able to work does work, even if the government has to supply the job.

But most important, real welfare reform means helping some very desperate families—and their children—have a vision about the future, a sense that they are worth something and can do something with their lives, and that it matters to us that they have that chance.

If all this talk about welfare reform is more than election-year posturing, then Democrats and Republicans will have to work together as partners to accomplish welfare reform. So far, our Republican colleagues have chosen to go it alone. That's a shame—and a disappointment to the American people.

During deliberations by the Committee on Ways and Means, Democrats were not content to simply sit back and criticize. Hour after hour we offered constructive amendments designed to correct the most egregious flaws in the Republican bill. Time and again our ideas were rejected. As a result we must reject this bill. It is too tough on families and children; it sets up a welfare-to-work program that just won't work; and it lets the States raid the Federal Treasury without delivering much in return.

#### THE REPUBLICAN BILL IS STILL TOO TOUGH ON KIDS AND FAMILIES.

##### *1. The Republican majority insisted on raising taxes on 4.3 million working families who earn less than \$30,000 per year*

Republicans bristle at suggestions that they favor the rich and claim that they are looking out for the average working family. Yet, at Chairman Archer's insistence, the welfare reform plan adopted by the Committee on Ways and Means will increase taxes on millions of Americans who work to support their families rather than accept welfare. That's because the bill phases out the earned income tax credit (EITC) for working families with children more quickly than under present law, increasing taxes on 4.3 million families earning between \$17,000 and \$29,000 per year.

To correct this, Rep. Barbara Kennelly (D-CT) proposed striking the tax increase on the working poor. Despite unanimous Democratic support, the Kennelly amendment failed on a voice vote.

The committee's recommendations regarding the EITC include yet another example of the callousness the Republican majority has consistently exhibited toward low-income working families.

Under current law, 20 million working families are bolstered by the tax credit in their daily struggle to make ends meet. These families earn no more than \$28,000 a year, and many make significantly less than that. Three-quarters of these workers—16 million families—have children. Twenty percent of these families—4.3 million of them—will experience a tax increase because of the Republican's inability or unwillingness to put themselves in these workers' shoes.

An earlier version of this welfare bill excluded the EITC provision that represents a tax increase for these families. But, not long before the committee markup, the Republican majority received



work that their cuts in the welfare program, drastic though they are, did not create sufficient budget savings to meet their budget reconciliation target. Their solution was to increase taxes on families earning between \$17,000 and \$29,000 per year. Why are these working families the target when the Republican majority needs to raise money because their welfare cutbacks have fallen short of the budget goal?

The Republican majority could have increased taxes on wealthier Americans better able to afford it. They could have proposed smaller tax cuts in their budget resolution, thus necessitating smaller cuts elsewhere to offset the tax cuts. They could have shaved tax breaks they have created and preserved for various business interests, such as the oil and gas industry. They could have reduced the defense budget. They could have identified some of the “unnecessary government spending” they rail against so often. They could have done any number of things instead. But, the Republican majority chose to make life more difficult for hard-working parents.

Democrats are not uncritical proponents of the EITC. It should be monitored carefully, administered properly, and targeted effectively. We are delighted that the anti-fraud measures that President Clinton initiated in 1994 have yielded impressive results. We are prepared to support the EITC provisions of this bill that build on those initiatives by enacting President Clinton’s further suggestions to increase EITC effectiveness. The provisions to improve EITC compliance by extending the application of the math-error procedures and to focus EITC benefits on wage earners by disallowing the use of capital income and various types of losses are appropriate.

But, the element of the recommendations that would create a second tier in the phasedown range in order to eliminate the EITC more quickly is unnecessary. Indeed, it is worse than that. It is hardhearted. Insensitive. Callous. It is an unadulterated tax increase—something Republicans supposedly stand against.

The taxpayers who will bear the brunt of this tax increase are parents who have one child and incomes between \$17,300 and \$25,700 and those with two or more children and incomes between \$21,300 and \$29,000. Those tax increases would total \$1.8 billion—as much as \$150 per family. And 360,000 families would lose their EITC entirely because the phasedown range would be reduced.

And, this is just the beginning.

Republicans will defend their proposal to phase down the EITC more quickly by claiming that families will receive the \$500-per-child tax credit that they promise to enact later this year in the budget reconciliation bill.

This is a fiction. And, it is no consolation to families who will have their existing tax credit cut by up to \$150.

The budget resolution calls for EITC cuts of \$18.5 billion in addition to the welfare savings that these committee recommendations achieve. The budget resolution also anticipates that a nonrefundable \$500-per-child tax credit will be enacted.

Millions of EITC recipients will get no child credit at all because their incomes are too low. If the child is not refundable, they won’t get any benefit.

Millions more will get a partial credit because they don't owe enough income tax to use their full child credit. For example, a family with income of \$20,000 and two children should receive \$1000 in child credits, if enacted. But they would not because they could not take more in the credit than they would own in tax. They would get only \$458 instead of \$1000.

In order to come up with the additional \$18.5 billion in EITC cuts, the Republican majority has said they intend to enact policy cuts quite similar to those in last year's balanced budget bill. That would result in additional EITC cuts of \$356 for that \$20,000 family with 2 children.

So, it is disingenuous of the Republican majority to try to lull low-income working families into accepting major cuts in the EITC by promising \$500-per-child credits that most of those families will never receive.

Republican Director of the Office of Management and Budget under President Bush, Dick Darman, coined a memorable phrase about unacknowledged tax increases. It went something like this: "If it looks like a duck and walks like a duck and quacks like a duck, it's a duck." The Republicans' so-called second-tier phase-down of the EITC looks and walks and quacks like a duck, alright. It is an unambiguous tax increase on 4.3 million low-income families, a downpayment on the much larger tax increases the Republicans intend to inflict on them later this year. The Republicans may use soundbites like "welfare reform," "improved targeting," "personal responsibility," "moving from welfare to work," but none of these phrases mask the reality of a tax increase.

2. *The Republican majority insisted on putting at least 1 million American children and 2 million parents at risk of losing their health insurance*

Lack of health coverage is a prime reason many parents are forced to choose welfare over work. Over the past decade, this committee—under Democratic leadership—has taken steps to correct this problem by making certain that when a welfare recipient goes off welfare and goes to work, health coverage continues. After all, a productive employee is one that does not have to worry about whether her child will get needed health care.

The Republican welfare reform philosophy is to leave questions about health coverage entirely to State Governors. Time and again they will ask us to trust the Governors. Be careful to read the fine print of the Republican plan. What "trusting the Governors" really means is eliminating the guarantee of health coverage for parents and children. It means that millions of Americans will be at risk of losing the health coverage that gives them peace of mind.

Republicans were embarrassed to learn from the Democrats that their plan would not guarantee Medicaid even for those families who would continue to be eligible for cash welfare. They were equally stunned to learn that their plan eliminated the assurance of health coverage for families who leave welfare for work. They corrected these flaws but refused Democratic attempts to assure health coverage for at least 3 million other families who have it now but may lose it if the Republican bill becomes law.

Rep. Sander Levin (D-MI) offered an amendment to make certain that all those families who are now eligible for Medicaid retain that eligibility—so that welfare reform does not increase the number of uninsured Americans. The Republican majority said no.

Rep. Pete Stark (D-CA) offered an amendment to require that Medicaid be continued for any family that loses welfare eligibility because of a time limit on benefits. Despite unanimous Democratic support, the Republican majority said, no, and the Stark amendment was rejected.

Without the Stark and Levin amendments, at least one million children may lose their Medicaid coverage. Even more children could suffer if the States choose to narrow eligibility for cash welfare, as they are encouraged to do under the new block grant.

*3. The Republican majority insisted on punishing children for the mistakes of their parents*

Three times the Democrats tried to get the Republicans to soften the punishments that extend to children if their parents cannot find work to support the family. Three times the Republicans voted no, insisting on punishing children for the mistakes of their parents.

Rep. Charles Rangel (D-NY) offered an amendment to assure that an arbitrary time limit is not imposed on a parent who “plays by the rules” but still cannot find a job. Under the Rangel amendment if the parent does all that the State asks in terms of training, education, and work but there is still no job available, the time limit on benefits would not apply. The Republican majority said no to the Rangel amendment, choosing instead to punish the children.

Rep. Sander Levin (D-MI) proposed to require that vouchers be paid to help children in any States that limit welfare payments to less than 60 months; after 5 years, States would have the option to pay vouchers. This policy is a feature of the bipartisan “Tanner-Castle” welfare reform bill (H.R. 3266). The Republican majority said no to the Levin amendment.

As a last resort, Rep. Sander Levin (D-MI) asked his Republican colleagues to support the voucher policy that they had all endorsed in H.R. 4, the welfare reform bill that President Clinton vetoed. H.R. 4 would have permitted vouchers to support just the children after both parent and child have received welfare for 60 months. The Republicans flip-flopped, rejecting their own policy, and again chose not to protect the children.

*4. The Republican majority insisted on denying benefits to virtually all legal immigrants regardless of their circumstances*

The Republican bill bars legal immigrants from receiving supplemental security income (SSI) and food stamps and authorizes States to bar immigrants from the Temporary Assistance for Needy Families Block Grant (AFDC), the Title XX Social Services Block Grant, and Medicaid. The bill would impose these bans retroactively on those already receiving benefits, cutting off over one million legal immigrants regardless of their circumstances. Among those denied benefits are over half a million elderly and disabled SSI recipients, including 10,000 disabled children.

Rep. Charles Rangel (D-NY) offered an amendment which would have prospectively deemed the income of a sponsor to the legal immigrant until citizenship for purposes of applications for SSI and family assistance, assuring protection for people whose sponsor's have died or lost their income. Democrats would have continued eligibility to Medicaid coverage, thus protecting small children who fall ill. Democrats would also have protected abused children by exempting them from the impact of the provision. By continuing the current-law exemption for applicants who became disabled after they enter the country, Democrats would have assured that a legal immigrant who gets hit by a truck, for example, and is unable to work would not have been left without help. Moreover, Democrats would have assured that an immigrant who has worked hard and paid taxes for 20 quarters would be eligible for benefits. The Democrats are interested in fair and humane treatment of legal immigrants. The Republican majority rejected the Rangel amendment by voice vote.

*5. Democrats protected emergency assistance for low-income elderly and disabled people affected by the Republican cut in SSI*

The Republican welfare bill eliminates the first month of benefits for all future SSI applicants. As a result, nearly one million low-income elderly and disabled people who apply for SSI benefits each year all will receive reduced benefits.

Rep. John Lewis (D-GA) successfully amended to bill to assure that where an individual faces a financial emergency that individual may receive an advance on his or her first month's payment. The payment would have to be repaid through deductions in the recipient's check over the next 6 months.

It is a small comfort that at least a portion of the hundreds of thousands of elderly and disabled people who will be hurt by this provision will get emergency relief, thanks to the Lewis amendment.

*6. The Democrats protected low-income elderly women from cuts in SSI*

The Republican welfare bill vetoed by the President and the bill offered by Republicans in the Subcommittee on Human Resources included a provision increasing the retirement age for low-income elderly under the SSI program from age 65 to age 67. The Republican bill would have driven a hole through the safety net for low-income senior citizens, especially women. When fully implemented, the provision would have denied assistance to more than 100,000 poor elderly in any month. Many of those affected would have been women who have only modest Social Security benefits.

As a result of an amendment offered by Rep. Sander Levin (D-MI), Democrats successfully altered the Subcommittee bill to delete the provision and maintain SSI protection for the aged. This will assure that women who stay home to raise their children and workers who spend an entire lifetime in the work force at low wages will not be unfairly deprived of the most minimal SSI payments in their old age.

7. *The Democrats kept Republicans from making the most drastic cuts in SSI benefits to disabled children*

Under the Republican bill vetoed by the President, Republicans would have denied or reduced SSI benefits to nearly one million disabled children. Under pressure from the Democrats and the bipartisan National Governors' Association, the Republicans backed off of much of their extreme position. Democrats were successful in offering an amendment to assure that, in applying the new definition of childhood disability, the Commissioner of Social Security take into account the combined effects of all physical and mental impairments. In addition, the Commissioner would be required to provide for the evaluation of children who are too young to test.

Democrats believe that the SSI disabled children's program needs to remain abuse-free, but they do not believe that hundreds of thousands of severely disabled children should be made to suffer. The Democrats have consistently favored targeting and eliminating abuse while protecting vulnerable disabled children.

THE REPUBLICAN WORK PROGRAM JUST WON'T WORK

1. *The Republican majority rejected every Democratic attempt to craft a welfare-to-work program that will work*

Work, training and child care are the cornerstones of any successfully welfare reform strategy. Four times, Democrats tried to correct fundamental flaws in the Republican bill. All were rejected.

Rep. Richard Neal (D-MA) proposed a comprehensive amendment to fix the Republican work program, using provisions of the bi-partisan "Castle-Tanner" bill. Mr. Neal's amendment would have increased funding for the work-related elements of the bill, tightened the rules used to measure whether a State succeeds with its work program, and required an individual responsibility contract between the State and the welfare recipient. Despite unanimous Democratic support, the Neal amendment was rejected by voice vote.

Rep. Bill Coyne (D-PA) offered an amendment that would make certain that work pays better than welfare. The Coyne amendment simply would have required that the earned income tax credit—which is paid to low-income taxpayers as an incentive to work—not be counted against the family when determining welfare eligibility. Without this correction, the family won't get ahead—every dollar of EITC the family earns will reduce its cash assistance. The Republican majority said no.

Reps. Phil English (R-PA) and Gerald Kleczka (D-WI) tried to make certain that States may not allow welfare recipients to displace current workers, replace workers terminated just to fill the vacancy with a welfare recipient, or replace someone laid off. Two versions of the amendment were offered. Both were rejected by the Republican majority.

Finally, yet another attempt at bipartisan cooperation was rejected when Reps. Nancy Johnson (R-CT) and Barbara Kennelly (D-CT) offered an amendment to prohibit States from penalizing the parents of a child who is under 10 years of age if they cannot work because no child care is available, noting that in many com-

munities it is simply not safe to leave young children to fend for themselves while mom is at work. The amendment was rejected.

THE REPUBLICAN BILL LETS STATES RAID THE FEDERAL TREASURY  
WITHOUT DELIVERING MUCH IN RETURN

1. *The Republican majority refused to hold States accountable for the promises they make to America's children*

The battle cry of Republican welfare reform initiatives is State flexibility. In their myopic view of the world, the only way to achieve that goal is block grants to the States with no strings attached. Democrats share the desire to give States more flexibility *but* as long as the Federal Government plays “banker” to the States for welfare programs, Democrats will insist that smart business sense prevail. No blank checks will be written, no sweetheart deals tolerated, and no empty State promises permitted.

Democrats made three significant attempts to hold States accountable in the new Republican world of block grants. Republicans rejected each amendment.

Rep. Harold Ford (D-TN) offered a straight-forward amendment to extend certain basic protections to families under the block grant. The Ford amendment would have required objective eligibility and benefit decisions, made certain that States treat similar families alike, and mandated prompt impartial hearings when disputes arise between the State and the family. Republicans said no to a level playing field for families. Instead, they stacked the deck against families and in favor of State governments.

Similarly, Rep. Richard Neal (D-MA) offered an amendment that would have granted the Secretary of Health and Human Services (HHS) the authority to enforce the promises made in the State plan. The Republican bill specifically prohibits HHS from doing anything more than reviewing the paperwork to see if the plan includes everything required by law. The Republicans intentionally bar the Secretary from making certain that the State actually does what it says in its plan. Once again, the Republican majority said no to families, insisting on a stacked deck in favor of States.

And, Rep. Sander Levin (D-MI) offered an amendment to modify the contingency fund that is available to States in the event of a severe recession. In the Republican plan a contingency fund is supposed to be triggered in times of economic difficulty—but, as proposed, the fund is too small to weather even a modest recession. The Republicans said no to the Levin amendment, promising to reconsider later if problems arise. Unfortunately, it is poor children who will pay the price if action is delayed.

SETTING THE RECORD STRAIGHT

Our Republican colleagues have used the opening pages of this legislation to make rhetorical arguments about the need for this bill. Presented as “findings” some are actual facts. Others are interpretations of facts, written to support just one point of view in the welfare debate. Left unchallenged, the future reader of this important legislation would have to conclude that there was universal agreement with each of these statements. Simply stated, there is

not. And we wish to supply this additional information to complete the record.

First, if we were to write our own statement of findings—mixing fact with rhetoric as the Republicans have done—about the Republican welfare reform measure, we would choose a list something like the following:

The number of individuals receiving aid to families with dependent children (AFDC)—what most people think of as welfare—has remained relatively steady since 1971.

The Department of Health and Human Services (HHS) projects that only 10.2 million children will receive AFDC benefits by fiscal year 2006.

The policies contained within the new Republican bill could push millions of additional children into poverty.

Research indicates that the associations between welfare-benefit levels and out-of-wedlock pregnancy generally are small and apply only to whites.

Evidence linking welfare benefits with rising nonmarital fertility is not consistent and does not suggest that welfare represents an important factor in recent increases in childbearing outside of marriage.

Despite the rise in the birth rate for teen mothers that occurred in the late 1980s, the teen birth rate is lower now than it was in the 1950s and 1960s.

The number of welfare recipients has dropped by 1.3 million since January 1993.

We note, for the record that data about nonmarital births are particularly tricky to understand. The large increase in the number of nonmarital births, particularly among teens, has contributed to the perception that the provision of welfare benefits encourages nonmarital births in general and teen births in particular.

There has also been growing research which indicates that out-of-wedlock and teen birth negatively impact the health, educational attainment, and long term adulthood success of children born under these circumstances. Some conclude, then, that by simply eliminating welfare benefits and/or putting conditions for receipt of welfare benefits upon teens and children born out-of-wedlock, the rate of nonmarital and teen births will decrease, thus decreasing negative impacts upon children. The association between welfare receipt and behavior, however, is not clearly documented.

The new Republican bill focuses specifically on this connection between welfare dependency and out-of-wedlock pregnancy and birth, whereas Democrats focus on eliminating obstacles to self-sufficiency, such as providing real work opportunities and reliable child care, while at the same time, encouraging and reinforcing responsible parenting. There is no evidence that the unfavorable economic, social, and educational outcomes often attributed to out-of-wedlock and teen births are actually the result of the birth, rather than the result of preexisting circumstances, such as growing up in poverty, having limited educational opportunities, and access to prenatal and child care.

Again for the record, we take issue with the following six “findings” in the Republican welfare reform bill:

*Republican claim No. 1*

“\* \* \* 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 the policy contained in part A of title IV of the Social Security Act (as amended by section 103(a) of this Act) is intended to address the crisis.” (H.R. 3507, Section 101(9), p. 15)

Title IV–A of the Social Security Act was designed to protect the well-being poor families with dependent children in times of crisis. There is bipartisan agreement that conditions for poor people in the country have deteriorated, that there are increasing numbers of poor children (from 1979 to 1994 the number of poor children increased from 8.6 million to 13.2 million), and that the current welfare system discourages work and responsibility, breaks up families, and fails to move people from poverty to independence.

However, there is no evidence that the policies contained in the new Republican bill, which would amend Title IV–A of the Social Security Act, will successfully address these crises. The Republicans have not proven that the current welfare system is to blame for the conditions they cite. Furthermore, it is unclear which provisions in the new Republican bill would remedy the problems.

For example, State flexibility is a central tenant of the Republican bill. But, there is no evidence that the lack of State flexibility in current law has prohibited States from addressing these problems and that increasing State flexibility would enable States to be more successful in decreasing problems.

Similarly, the Republican majority contends that implementing a family cap on welfare benefits would lead to decreased nonmarital birth and increased self-sufficiency. New research findings on the impact of the New Jersey cap on AFDC births do not support the contention that the family cap policy has an effect on the number of AFDC births.

Finally, the Republicans majority proposes to reduce out-of-wedlock births by paying States that reduce rates of illegitimacy a bonus. It is unlikely that the small amount of bonus money that is offered to States to reduce out-of-wedlock births will enable them to implement programs that will actually change the trends in out-of-wedlock births.

The reform effort contained within the new Republican bill is not guaranteed to address the problems, and may only exacerbate the problems of poor children and their families. Analysis of bills similar to this one found that more—not fewer—children could be made poor. We await a similar of this bill by the Clinton administration and would be alarmed if the probability of this reform effort was more poor children.

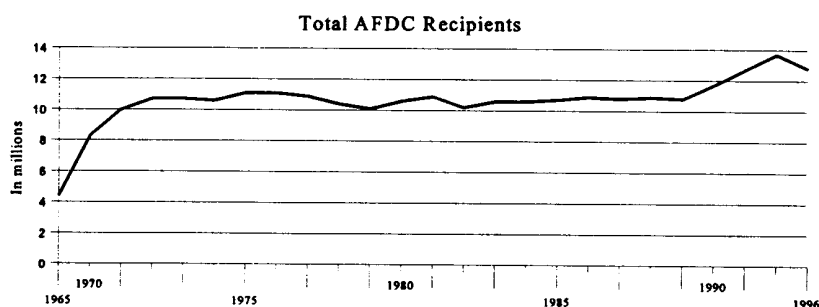
*Republican claim No. 2*

“The number of individuals receiving aid to families with dependent children has more than tripled since 1965.” (H.R. 3507, Section 101(5), p. 10)

The number of recipients receiving AFDC has, in fact, remained relatively steady since 1971. The number of recipients more than doubled from 1965 to 1971 (from 4.4 billion to 10.0 billion), and then has remained relatively consistent since that time. Why are



we enacting legislation in 1996 to address the increase in recipients which occurred in the 1960s? Most recent data from March 1996 indicates that there are 12.8 billion recipients, as compared to the 10.0 billion recipients in 1971,<sup>1</sup> only a 27 percent increase over these 25 years. In fact, caseloads have been decreasing since President Clinton's policy to enact State waivers. After the increase in recipients from 1989 to 1992, a result of policies enacted by the previous administration, caseloads have fallen from 13.6 million to 12.8 million.



*Republican claim No. 3*

“The Department of Health and Human Services has estimated that 12,000,000 children will receive AFDC benefits within 10 years.” (H.R. 3507, Section 101(5)(B), pp. 9–10)

Most current HHS caseload projections estimate only 10.2 million children will receive benefits by fiscal year 2006. This recalculation is based upon recent and projected decreases in the overall caseload of AFDC recipients, as reported in the President's fiscal year 1997 budget.

*Republican claim No. 4*

“The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women.” (H.R. 3507, Section 101(5)(C), page 11)

Research has been conducted to assess whether the generosity of welfare benefits over time and among States has contributed to the growth in the incidence of out-of-wedlock birth. While there is inconsistency in results, associations between welfare benefit levels and out-of-wedlock pregnancy generally are small and apply only to whites. “In sum, the evidence linking welfare benefits with rising nonmarried fertility is not consistent and does not suggest that welfare represents an important factor in recent increases in childbearing outside of marriage.”<sup>2</sup>

Another argument that cannot be substantiated is that an increase in benefits over time would encourage out-of-wedlock births.

<sup>1</sup>Data for 1965: House Document No. 93–78 (part 1). Historical Statistics of the United States: Colonial Times to 1970: U.S. Department of Commerce, Bureau of the Census. Data from 1970: Committee on Ways and Means, U.S. House of Representatives, Overview of Entitlement Programs: 1993 Green Book.

<sup>2</sup>“Report to Congress on Out-of-Wedlock Childbearing,” U.S. Department of Health and Human Services, September 1995, p.xiv.

Welfare benefits have increased, but inflation has eroded the value of these benefits. The real value of AFDC and food stamps has decreased by 25 percent since 1970.<sup>3</sup>

If welfare benefits influence childbearing decisions, it is likely that out-of-wedlock births would be higher in States where higher benefits are provided. In fact, nonmarital births are more common in States with lower benefit levels.<sup>4</sup>

*Republican claim No. 5*

“The increase of out-of-wedlock pregnancies and births is well documented” (H.R. 3507, Section 101(6), page 11)

There has been an increase in the nonmarital birth rate, but it is also much smaller than its increased share of the total birth rate. The principal causes of the growth in the share of births attributable to nonmarital births are not based simply upon an increase in out-of-wedlock births, but on declining marriage rates and declining birth rates among married women. Between 1960 and 1990 the percentage of women of childbearing age who were married at any point in time declined from 71 percent to 55 percent; the annual birth rate for married women dropped from 16 percent to 9 percent.<sup>5</sup>

NOTE.—Reductions in the number of total births, especially the number of wedlock births, can increase the out-of-wedlock birth ratio without any change in out-of-wedlock births. The simultaneous drop in wedlock births, combined with the rise in out-of-wedlock births, has led to an inflation of the perceived increase in out-of-wedlock births. The out-of-wedlock birth rate, the number of out-of-wedlock births per 1,000 women, is a more accurate measure of the rise of out-of-wedlock births.

*Republican claim No. 6*

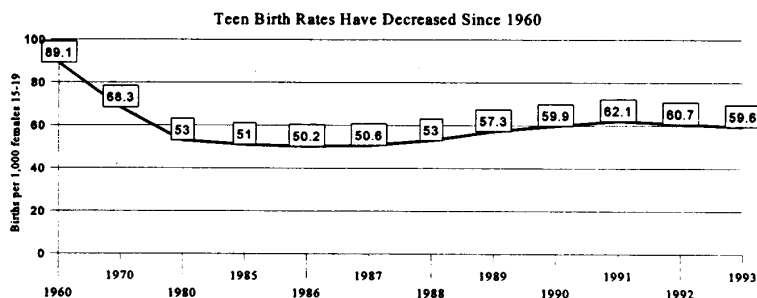
“It is estimated that the rate of nonmarital teen pregnancy rose 23 percent [from 1976 to 1991].”

Despite the rise in the teen birth rate that occurred in the late 1980s, the teen birth rate is lower now than it was in the 1950s and 1960s. Most recently, from 1991 to 1993, the birth rate for teens aged 15–19 declined 4 percent. In 1960, there were 586,966 births to teens aged 15–19, as compared to 501,093 in 1993.

<sup>3</sup> 1993 Green Book.

<sup>4</sup> Sawhill, Isabel V. “Welfare Reform: An analysis of the Issues.” Urban Institute, Washington, D.C., p. 52.

<sup>5</sup> Center on Social Welfare Policy and Law (1966). “Welfare Myths: Fact or Fiction? Exploring the Truth About Welfare.”



Nonmarital births have increased among teens, but there have also been significant increases among women of all ages. From 1970 to 1990, nonmarital birth among teen increased from 2.2 percent to 4.2 percent. The birth rate for single women in their early 20's is higher than the rate for single teens, increasing from 3.8 percent to 6.5 percent from 1970 to 1990.

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## **COMMITTEE ON THE BUDGET—MINORITY VIEWS ON THE FIRST REPUBLICAN RECONCILIATION PACKAGE**

On June 19, 1996, the Budget Committee considered the first of a three-step reconciliation process required by the conference report on the 1997 budget resolution. As we know, that budget increases the Federal deficit next year for the first time in 4 years. It does this because the new Republican majority insists on passing large tax cuts before it deals with the level of spending needed to meet the commitments it makes. In fact, under this new Republican budget the deficit will increase from \$130 billion this year to \$153 billion next year—a whopping 1-year increase of \$23 billion.

Over the last year the new Republican majority has learned a great deal about the Federal budget and it has made some improvements upon the proposals that were before us in the Contract With America budget of a year ago. The mean-spirited attacks on school lunch and child nutrition programs have been dropped. Some of the ignorant and misguided attacks on student aid and Head Start have been dropped. The outrageous rip-offs that comprised most of the Contract With America's tax package have been somewhat reduced. Nevertheless, the policy proposals contained in this year's budget remain dangerously radical and out of touch with the American populace and should be rejected.

The new Republican budget is little changed from the package rejected last year by the President. Repackaging it in a three-part reconciliation process does not alleviate its fundamental flaws. And, by choosing to include welfare reform, Medicaid, and the child tax credit in the first reconciliation bill, the new majority exposes its basic cynicism about the budget.

Because the Ways and Means Committee failed to act on the tax cut, the first reconciliation bill reported by the Budget Committee is limited to only welfare reform and Medicaid changes. It is unclear, however, whether this is the package that will ultimately be considered on the floor. Not only do we not know if or when we are going to see a tax package, we don't know what will be in a tax package. We also don't know if this first reconciliation bill will remain as a welfare/Medicaid package or if it will be split into two separate bills. If split into two separate bills, it is not clear that each of those bills would be governed by the terms of a reconciliation process.

### **WELFARE REFORM**

There is almost universal agreement that the present welfare system needs reform. Most people agree that any serious effort at welfare reform must be designed to help move people who are able to work off the welfare rolls and onto the work rolls.

The first reconciliation bill incorporates much of last year's Republican welfare plan that passed Congress and was vetoed by the

President. This year's package contains \$48 billion of cuts in welfare-related programs, predominately hitting food stamp and SSI recipients and legal immigrants. It also includes \$5 billion of cuts in the Earned Income Tax Credit (EITC), for total cuts of \$53 billion. These reductions, when combined with the additional EITC cuts of \$18.5 billion that are reconciled for the third part of this process, remain too steep. The structural changes proposed contain serious flaws.

The package eliminates all individual guarantees for assistance to needy families and replaces them with a series of block grants to States. The States are then allowed to make deep cuts in their share of funding for welfare benefits, thereby producing a double hit on the most vulnerable among us. While the budget purports to help people move from "welfare to work," it simply does not contain the resources needed to sustain a serious effort to encourage work. And its grants of wide scale flexibility for States when combined with its reductions in State maintenance of effort will most certainly exacerbate pressures among States to "race to the bottom."

#### MEDICAID

The Republican plan for Medicaid has the potential to cause as much or more harm than the welfare reform package. Medicaid is the basic program whereby the Federal Government helps States provide health care for the poorest and most vulnerable people in our Nation. This reconciliation bill cuts Federal Medicaid funding by \$72 billion. To make matters worse, the Republican proposal allows States to drain large amounts of money out of the system by significantly reducing the States' "maintenance of effort" and "match" requirements. By so weakening the State's share of the program, the Republican plan will allow more than \$250 billion to be siphoned off from health care services for the poor.

The majority's plan would send a loosely defined block grant back to the States without the current guarantees of care for low-income children, pregnant women, disabled people, or senior citizens. By relying heavily on the Republican Governors for the design of their new Medicaid package, the Republican Congress has proposed a program that allows States to reduce their financial commitment to the program without any guarantee that poor people and seniors will receive the health care taxpayers are paying for. Clearly, the Medicaid program could benefit from large-scale regulatory reform, but this is just plain ridiculous.

#### TAX CUTS

Perhaps the most interesting feature of this reconciliation package is its deliberate failure to meet the revenue directive which allowed for the now famous \$500 per child tax credit. It is not clear whether this tax cut will appear magically in the Rules Committee, on the floor, in conference, in a later reconciliation bill, as a separate bill, or not at all. Clearly, the presence of a tax cut at this stage of the reconciliation process complicates all attempts to bring the deficit down in the near future.

## WHITHER THE PROCESS

Normally, the budget resolution would require an omnibus reconciliation bill that combines all of the entitlement and tax changes into a single piece of legislation. This year the majority chose not to do an omnibus bill, but rather to break reconciliation into three separate bills. This procedure is not only highly unusual, but it begs the question: Why these three bills? Achieving more deficit reduction is certainly not the answer to this question. The first reconciliation bill was designed to include the tax cuts. Thus the first bill out of the starting block would dramatically increase the deficit. This stands in stark contrast to the Republican budget-balancing concerns of last year, when the Congressional Budget Office was required to certify that the budget would reach balance before tax cuts could be considered.

The future of this year's process is not yet clear. The final form of the first reconciliation bill has not yet been decided. And while the budget resolution spells out what should be in reconciliation bills two and three, it is difficult to have confidence that the majority will follow the resolution's guidance. Reconciliation is normally a complicated and difficult legislative process. But this year the majority has turned it into a tortured dance that is spinning out of control. Even their leaders don't know where it will end.

One thing is clear—it is not possible to make credible reforms in welfare, Medicaid, Medicare and other spending programs and pass a large tax cut without increasing the Federal budget deficit.

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DISSENTING VIEWS FROM REPRESENTATIVE CARRIE P.  
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I am dismayed that part of the majority's bill designed to move people from welfare to work contains a tax increase on more than 4 million Americans who have already chosen work over welfare. But I am not surprised that the majority is now raising taxes on these working families to help pay for a tax cut for the wealthy later this year.

The bill reported by the Committee on the Budget, H.R. 3507, cuts the earned income tax credit by \$5 billion over 6 years. Later this year the Republicans will offer us the final \$15 billion in cuts in the EITC in order to meet their reconciliation target of a \$20-billion cut over 6 years.

H.R. 3507 increases taxes on working families. It raises taxes on families with one child who have annual incomes between \$17,340 and \$25,750, and it also increases taxes for other working families who have annual incomes between \$21,360 and \$29,261.

H.R. 3507—unlike last year's reconciliation bill—does not contain the \$500 child tax credit to help offset these tax hikes on working Americans.

The Department of the Treasury estimates that H.R. 3507 will raise taxes on 4.3 million working families.

Rule XXI(5)(c) of the House of Representatives says that no bill "carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting."

The Republican majority inserted this provision in the House's rules with great pride at the beginning of this Congress. Then they claimed they were protecting working Americans from a tax increase.

However, 9 months later the Republican majority waived this three-fifths rule when the House approved, last October, a \$23 billion cut in the EITC as part of last year's reconciliation bill.

Now we are again considering a reconciliation bill. On a party line vote, the Committee on the Budget rejected a motion instructing the chairman to ask the Committee on Rules to not again waive this three-fifths provision when H.R. 3507 is brought to the floor.

The Republican majority is so eager to raise taxes on more than 4 million people who have chosen work over welfare that it will deliberately ignore its own procedural rules.

CARRIE P. MEEK.

