

104TH CONGRESS
1ST SESSION

H. R. 9

To create jobs, enhance wages, strengthen property rights, maintain certain economic liberties, decentralize and reduce the power of the Federal Government with respect to the States, localities, and citizens of the United States, and to increase the accountability of Federal officials.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. ARCHER, Mr. DELAY, Mr. SAXTON, Mrs. SMITH of Washington, and Mr. TAUZIN (for themselves, Mr. HASTERT, Mr. DORNAN, Mr. ROHRABACHER, Mr. BLUTE, Mr. SMITH of Texas, Mr. LINDER, Mr. KIM, Mr. MICA, Mr. BACHUS, Ms. DANNER, Mr. HOKE, Mr. CLINGER, Mr. BALLENGER, Mr. CALLAHAN, Mr. SHAW, Mr. NUSSLE, Mr. LARGENT, Mr. COX, Mr. STOCKMAN, Mr. SMITH of Michigan, Mr. BAKER of California, Mr. HERGER, Mr. HEINEMAN, Mrs. FOWLER, Mr. SENSENBRENNER, Mr. STEARNS, Mr. HUTCHINSON, Mr. HANCOCK, Mr. TALENT, Mr. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. HOSTETTLER, Mr. JONES, Mr. TIAHRT, Mrs. MYRICK, Mr. EWING, Mr. HOUGHTON, Mrs. CUBIN, Mr. KINGSTON, Mr. HASTINGS of Washington, Mr. GANSKE, Mr. SCHAEFER, Mr. BAKER of Louisiana, Mr. HALL of Texas, Mr. WELDON of Florida, Mr. COBURN, Mr. WELLER, Mr. LEWIS of Kentucky, Mr. BUNNING of Kentucky, Mr. FOLEY, Mr. INGLIS of South Carolina, Mr. LIGHTFOOT, Mr. ISTOOK, Mr. CALVERT, Mr. HOBSON, Mr. KNOLLENBERG, Mr. BILIRAKIS, Mr. HAYWORTH, Mr. FOX, Mr. RADANOVICH, Mr. ROTH, Mr. WAMP, Mr. SOLOMON, Mr. BLILEY, Mr. DOOLITTLE, Mr. PACKARD, Mr. GILMAN, Mr. MILLER of Florida, Mr. ROYCE, Mr. FLANAGAN, Mr. LATHAM, Ms. MOLINARI, Mr. GUNDERSON, Mr. THORNBERRY, Mr. RIGGS, Mr. ALLARD, Mr. CHRISTENSEN, Mr. GOODLATTE, Mr. SANFORD, Mr. HILLEARY, Mr. COOLEY, Mr. WICKER, Mr. BONO, Mr. FRISA, Mr. MCINTOSH, Mr. EVERETT, Mr. SMITH of New Jersey, Mr. SHADEGG, Mrs. JOHNSON of Connecticut, Mr. CHRYSLER, Mr. CUNNINGHAM, Mr. CANADY, Mr. MCCOLLUM, Mr. GOODLING, Mr. BARTON of Texas, Mr. BARR, Mr. ARMEY, Mr. FORBES, Mrs. WALDHOLTZ, Mr. TATE, Ms. DUNN, Mr. MCHUGH, Mr. CRAPO, Mr. KOLBE, Mr. PAXON, Mr. YOUNG of Florida, Mr. COMBEST, Mr. COBLE, Mr. EHRLICH, and Mrs. MEYERS of Kansas) introduced the following bill; which was referred as follows:

Titles I–II, referred to the Committee on Ways and Means

Title III, referred to the Committee on Science and, in addition, to the Com-

mittees on Commerce and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

Title IV, referred to the Committee on the Budget and, in addition, to the Committees on Rules, Government Reform and Oversight, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

Title V, referred to the Committee on Government Reform and Oversight

Title VI–IX, referred to the Committee on the Judiciary

Title X, referred to the Committee on the Budget and, in addition, to the Committees on Government Reform and Oversight, Rules, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

Title XI, referred to the Committee on Ways and Means and, in addition, to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

Title XII, referred to the Committee on Ways and Means

JANUARY 19, 1995

Additional sponsors: Mr. STUMP, Mr. LUCAS, Mr. BURTON of Indiana, Mr. NORWOOD, Mrs. VUCANOVICH, Mr. WALKER, Mr. HUNTER, Mr. CREMEANS, Mr. LIVINGSTON, Mr. LATOURETTE, Mr. SAM JOHNSON of Texas, and Mr. COLLINS of Georgia

FEBRUARY 9, 1995

Titles V, VI and section 4003 are rereferred to the Committee on Small Business

FEBRUARY 9, 1995

Additional sponsors: Mrs. SEASTRAND, Mr. ROBERTS, Mr. POMBO, Mr. CRANE, and Mr. FIELDS of Texas

A BILL

To create jobs, enhance wages, strengthen property rights, maintain certain economic liberties, decentralize and reduce the power of the Federal Government with respect to the States, localities, and citizens of the United States, and to increase the accountability of Federal officials.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Job Creation and
5 Wage Enhancement Act of 1995”.

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

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

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

TITLE I—CAPITAL GAINS REFORM

- Sec. 1001. 50 percent capital gains deduction.
- Sec. 1002. Indexing of certain assets for purposes of determining gain or loss.
- Sec. 1003. Capital loss deduction allowed with respect to sale or exchange of principal residence.

TITLE II—NEUTRAL COST RECOVERY

- Sec. 2001. Depreciation adjustment for certain property placed in service after December 31, 1994.

TITLE III—RISK ASSESSMENT AND COST/BENEFIT ANALYSIS FOR
NEW REGULATIONS

- Sec. 3001. Findings

Subtitle A—Risk Assessment and Communication

- Sec. 3101. Short title.
- Sec. 3102. Purposes.
- Sec. 3103. Effective date; applicability; savings provisions.
- Sec. 3104. Principles for risk assessment.
- Sec. 3105. Principles for risk characterization and communication.
- Sec. 3106. Guidelines, plan for assessing new information, and report.
- Sec. 3107. Definitions.

Subtitle B—Analysis of Risk Reduction Benefits and Costs

- Sec. 3201. Analysis of risk reduction benefits and costs.

Subtitle C—Peer Review

- Sec. 3301. Peer review program.

TITLE IV—ESTABLISHMENT OF FEDERAL REGULATORY BUDGET
COST CONTROL

- Sec. 4001. Amendments to the Congressional Budget Act of 1974.
- Sec. 4002. President’s annual budget submissions.

Sec. 4003. Estimation and disclosure of costs of Federal regulation.

TITLE V—STRENGTHENING OF PAPERWORK REDUCTION ACT

Sec. 5001. Short title.

Subtitle A—Authorization of Appropriations

Sec. 5101. Authorization of appropriations.

Subtitle B—Reducing the Burden of Federal Paperwork on the Public

Sec. 5201. Coverage of all federally sponsored paperwork burdens.

Sec. 5202. Paperwork reduction goals.

Subtitle C—Enhancing Government Responsibility and Accountability for
Reducing the Burden of Federal Paperwork

Sec. 5301. Reemphasizing the responsibility of the Director to control the burden of Federal paperwork.

Sec. 5302. Enhancing agency responsibility to obtain public review of proposed paperwork burdens.

Sec. 5303. Expediting review at the Office of Management and Budget.

Sec. 5304. Improving public and agency scrutiny of paperwork burdens proposed for renewal.

Sec. 5305. Protection for whistleblowers of unauthorized paperwork burden.

Sec. 5306. Enhancing public participation.

Sec. 5307. Expediting review of an agency information collection request with a reduced burden.

Subtitle D—Enhancing Agency Responsibility for Sharing and Disseminating
Public Information

Sec. 5401. Prescribing governmentwide standards for sharing and disseminating public information.

Sec. 5402. Agency responsibilities for sharing and disseminating public information.

Sec. 5403. Agency information inventory/locator system.

Subtitle E—Additional Government Information Management Responsibility

Sec. 5501. Strengthening the statistical policy and coordination functions of the Director.

Sec. 5502. Use of electronic information collection and dissemination techniques to reduce burden.

Sec. 5503. Agency implementation.

Sec. 5504. Automatic data processing equipment plan.

Sec. 5505. Technical and conforming amendments.

Subtitle F—Effective Dates

Sec. 5601. Effective dates.

TITLE VI—STRENGTHENING REGULATORY FLEXIBILITY

Sec. 6001. Judicial review.

Sec. 6002. Consideration of direct and indirect effects of rules.

Sec. 6003. Rules opposed by SBA Chief Counsel for Advocacy.

Sec. 6004. Sense of Congress regarding SBA Chief Counsel for Advocacy.

TITLE VII—REGULATORY IMPACT ANALYSES

- Sec. 7001. Short title.
- Sec. 7002. Rule making notices for major rules.
- Sec. 7003. Hearing requirement for proposed rules; extension of comment period.
- Sec. 7004. Regulatory impact analysis.
- Sec. 7005. Additional responsibilities of Director of the Office of Management and Budget.
- Sec. 7006. Standard of clarity.
- Sec. 7007. Report by OIRA.
- Sec. 7008. Definitions.

TITLE VIII—PROTECTION AGAINST FEDERAL REGULATORY ABUSE

Subtitle A—Citizens' Regulatory Bill of Rights

- Sec. 8101. Citizens' regulatory bill of rights.

Subtitle B—Private Sector Whistleblowers' Protection

- Sec. 8201. Short title.
- Sec. 8202. Purpose.
- Sec. 8203. Coverage.
- Sec. 8204. Prohibited regulatory practices.
- Sec. 8205. Prohibited regulatory practice as a defense to agency action.
- Sec. 8206. Enforcement.
- Sec. 8207. Citizen suits.
- Sec. 8208. Office of the Special Counsel.
- Sec. 8209. Relation to criminal investigations.

TITLE IX—PRIVATE PROPERTY RIGHTS PROTECTIONS AND COMPENSATION

- Sec. 9001. Statement of purpose.
- Sec. 9002. Compensation for Federal agency infringement or deprivation of rights to private property.
- Sec. 9003. Severability.
- Sec. 9004. Definitions.

TITLE X—ESTABLISHMENT OF FEDERAL MANDATE BUDGET COST CONTROL

- Sec. 10001. Amendments to the Congressional Budget Act of 1974.
- Sec. 10002. President's annual budget submissions.
- Sec. 10003. Estimation and disclosure of costs of Federal mandates.

TITLE XI—TAXPAYER DEBT BUY-DOWN

- Sec. 11001. Designation of amounts for reduction of public debt.
- Sec. 11002. Public Debt Reduction Trust Fund.
- Sec. 11003. Taxpayer-generated sequestration of Federal spending to reduce the public debt.

TITLE XII—SMALL BUSINESS INCENTIVES

- Sec. 12001. Increase in unified estate and gift tax credits.

Sec. 12002. Increase in expense treatment for small businesses.
 Sec. 12003. Clarification of definition of principal place of business.
 Sec. 12004. Treatment of storage of product samples.

1 **TITLE I—CAPITAL GAINS**
 2 **REFORM**

3 **SEC. 1001. 50 PERCENT CAPITAL GAINS DEDUCTION.**

4 (a) GENERAL RULE.—Part I of subchapter P of
 5 chapter 1 of the Internal Revenue Code of 1986 (relating
 6 to treatment of capital gains) is amended to read as fol-
 7 lows:

8 **“PART I—TREATMENT OF CAPITAL GAINS**

 “Sec. 1201. Capital gains deduction.

9 **“SEC. 1201. CAPITAL GAINS DEDUCTION.**

10 “(a) GENERAL RULE.—If for any taxable year a tax-
 11 payer has a net capital gain, 50 percent of such gain shall
 12 be a deduction from gross income.

13 “(b) ESTATES AND TRUSTS.—In the case of an es-
 14 tate or trust, the deduction shall be computed by excluding
 15 the portion (if any) of the gains for the taxable year from
 16 sales or exchanges of capital assets which, under sections
 17 652 and 662 (relating to inclusions of amounts in gross
 18 income of beneficiaries of trusts), is includible by the in-
 19 come beneficiaries as gain derived from the sale or ex-
 20 change of capital assets.

21 “(c) COORDINATION WITH TREATMENT OF CAPITAL
 22 GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—
 23 For purposes of this section, the net capital gain for any

1 taxable year shall be reduced (but not below zero) by the
2 amount which the taxpayer takes into account as invest-
3 ment income under section 163(d)(4)(B)(iii).

4 “(d) TRANSITIONAL RULE.—

5 “(1) IN GENERAL.—In the case of a taxable
6 year which includes January 1, 1995—

7 “(A) the amount taken into account as the
8 net capital gain under subsection (a) shall not
9 exceed the net capital gain determined by only
10 taking into account gains and losses properly
11 taken into account for the portion of the tax-
12 able year on or after January 1, 1995, and

13 “(B) if the net capital gain for such year
14 exceeds the amount taken into account under
15 subsection (a), the rate of tax imposed by sec-
16 tion 1 on such excess shall not exceed 28 per-
17 cent.

18 “(2) SPECIAL RULES FOR PASS-THRU ENTI-
19 TIES.—

20 “(A) IN GENERAL.—In applying paragraph
21 (1) with respect to any pass-thru entity, the de-
22 termination of when gains and losses are prop-
23 erly taken into account shall be made at the en-
24 tity level.

1 “(B) PASS-THRU ENTITY DEFINED.—For
2 purposes of subparagraph (A), the term ‘pass-
3 thru entity’ means—

4 “(i) a regulated investment company,

5 “(ii) a real estate investment trust,

6 “(iii) an S corporation,

7 “(iv) a partnership,

8 “(v) an estate or trust, and

9 “(vi) a common trust fund.”

10 (b) DEDUCTION ALLOWABLE IN COMPUTING AD-
11 JUSTED GROSS INCOME.—Subsection (a) of section 62 of
12 such Code is amended by inserting after paragraph (15)
13 the following new paragraph:

14 “(16) LONG-TERM CAPITAL GAINS.—The de-
15 duction allowed by section 1201.”

16 (c) TECHNICAL AND CONFORMING CHANGES.—

17 (1) Section 13113 of the Revenue Reconcili-
18 ation Act of 1993 (relating to 50-percent exclusion
19 for gain from certain small business stock), and the
20 amendments made by such section, are hereby re-
21 pealed; and the Internal Revenue Code of 1986 shall
22 be applied as if such section (and amendments) had
23 never been enacted.

24 (2) Section 1 of such Code is amended by strik-
25 ing subsection (h).

1 (3) Paragraph (1) of section 170(e) of such
2 Code is amended by striking “the amount of gain”
3 in the material following subparagraph (B)(ii) and
4 inserting “50 percent of the amount of gain”.

5 (4)(A) Paragraph (2) of section 172(d) of such
6 Code is amended to read as follows:

7 “(2) CAPITAL GAINS AND LOSSES.—

8 “(A) LOSSES OF TAXPAYERS OTHER THAN
9 CORPORATIONS.—In the case of a taxpayer
10 other than a corporation, the amount deductible
11 on account of losses from sales or exchanges of
12 capital assets shall not exceed the amount in-
13 cludible on account of gains from sales or ex-
14 changes of capital assets.

15 “(B) DEDUCTION UNDER SECTION 1201.—

16 The deduction under section 1201 shall not be
17 allowed.”

18 (B) Subparagraph (B) of section 172(d)(4) of
19 such Code is amended by striking “paragraphs (1)
20 and (3)” and inserting “paragraphs (1), (2)(B), and
21 (3)”.

22 (5) Paragraph (4) of section 642(c) of such
23 Code is amended to read as follows:

24 “(4) ADJUSTMENTS.—To the extent that the
25 amount otherwise allowable as a deduction under

1 this subsection consists of gain from the sale or ex-
2 change of capital assets held for more than 1 year,
3 proper adjustment shall be made for any deduction
4 allowable to the estate or trust under section 1201
5 (relating to deduction for excess of capital gains over
6 capital losses). In the case of a trust, the deduction
7 allowed by this subsection shall be subject to section
8 681 (relating to unrelated business income).”

9 (6) Paragraph (3) of section 643(a) of such
10 Code is amended by adding at the end thereof the
11 following new sentence: “The deduction under sec-
12 tion 1201 (relating to deduction of excess of capital
13 gains over capital losses) shall not be taken into ac-
14 count.”

15 (7) Paragraph (4) of section 691(c) of such
16 Code is amended by striking “sections 1(h), 1201,
17 and 1211” and inserting “sections 1201 and 1211”.

18 (8) The second sentence of section 871(a)(2) of
19 such Code is amended by inserting “such gains and
20 losses shall be determined without regard to section
21 1201 (relating to deduction for capital gains) and”
22 after “except that”.

23 (9) Subsection (d) of section 1044 of such Code
24 is amended by striking the last sentence.

1 (10)(A) Paragraph (2) of section 1211(b) of
2 such Code is amended to read as follows:

3 “(2) the sum of—

4 “(A) the excess of the net short-term cap-
5 ital loss over the net long-term capital gain, and

6 “(B) one-half of the excess of the net long-
7 term capital loss over the net short-term capital
8 gain.”

9 (B) So much of paragraph (2) of section
10 1212(b) of such Code as precedes subparagraph (B)
11 thereof is amended to read as follows:

12 “(2) SPECIAL RULES.—

13 “(A) ADJUSTMENTS.—

14 “(i) For purposes of determining the
15 excess referred to in paragraph (1)(A),
16 there shall be treated as short-term capital
17 gain in the taxable year an amount equal
18 to the lesser of—

19 “(I) the amount allowed for the
20 taxable year under paragraph (1) or
21 (2) of section 1211(b), or

22 “(II) the adjusted taxable income
23 for such taxable year.

24 “(ii) For purposes of determining the
25 excess referred to in paragraph (1)(B),

1 there shall be treated as short-term capital
2 gain in the taxable year an amount equal
3 to the sum of—

4 “(I) the amount allowed for the
5 taxable year under paragraph (1) or
6 (2) of section 1211(b) or the adjusted
7 taxable income for such taxable year,
8 whichever is the least, plus

9 “(II) the excess of the amount
10 described in subclause (I) over the net
11 short-term capital loss (determined
12 without regard to this subsection) for
13 such year.”

14 (11) Paragraph (1) of section 1402(i) of such
15 Code is amended by inserting “, and the deduction
16 provided by section 1201 shall not apply” before the
17 period at the end thereof.

18 (12) Section 12 of such Code is amended by
19 striking paragraph (4) and redesignating the follow-
20 ing paragraphs accordingly.

21 (13) Paragraph (2) of section 527(b) of such
22 Code is hereby repealed.

23 (14) Subparagraph (D) of section 593(b)(2) of
24 such Code is amended by adding “and” at the end
25 of clause (iii), by striking “, and” at the end of

1 clause (iv) and inserting a period, and by striking
2 clause (v).

3 (15) Paragraph (2) of section 801(a) of such
4 Code is hereby repealed.

5 (16) Subsection (c) of section 831 of such Code
6 is amended by striking paragraph (1) and redesignig-
7 nating the following paragraphs accordingly.

8 (17)(A) Subparagraph (A) of section 852(b)(3)
9 of such Code is amended by striking “, determined
10 as provided in section 1201(a), on” and inserting
11 “of 17.5 percent of”.

12 (B) Clause (iii) of section 852(b)(3)(D) of such
13 Code is amended—

14 (i) by striking “65 percent” and inserting
15 “82.5 percent”, and

16 (ii) by striking “section 1201(a)” and in-
17 serting “subparagraph (A)”.

18 (18) Clause (ii) of section 857(b)(3)(A) of such
19 Code is amended by striking “determined at the rate
20 provided in section 1201(a) on” and inserting “of
21 17.5 percent of”.

22 (19) Paragraph (1) of section 882(a) of such
23 Code is amended by striking “section 11, 55, 59A,
24 or 1201(a)” and inserting “section 11, 55, or 59A”.

1 (20) Subsection (b) of section 904 of such Code
2 is amended by striking paragraphs (2)(B), (3)(B),
3 (3)(D), and (3)(E).

4 (21) Subsection (b) of section 1374 of such
5 Code is amended by striking paragraph (4).

6 (22) Subsection (b) of section 1381 is amended
7 by striking “or 1201”.

8 (23) Subsection (e) of section 1445 of such
9 Code is amended—

10 (A) in paragraph (1) by striking “35 per-
11 cent (or, to the extent provided in regulations,
12 28 percent)” and inserting “17.5 percent (or, to
13 the extent provided in regulations, 19.8 per-
14 cent)”, and

15 (B) in paragraph (2) by striking “35 per-
16 cent” and inserting “17.5 percent”.

17 (24) Clause (i) of section 6425(c)(1)(A) of such
18 Code is amended by striking “or 1201(a)”.

19 (25) Clause (i) of section 6655(g)(1)(A) of such
20 Code is amended by striking “or 1201(a)”.

21 (26)(A) The second sentence of section
22 7518(g)(6)(A) of such Code is amended—

23 (i) by striking “during a taxable year to
24 which section 1(h) or 1201(a) applies”, and

1 (ii) by striking “28 percent (34 percent”
2 and inserting “19.8 percent (17.5 percent”.

3 (B) The second sentence of section
4 607(h)(6)(A) of the Merchant Marine Act, 1936 is
5 amended—

6 (i) by striking “during a taxable year to
7 which section 1(h) or 1201(a) of such Code ap-
8 plies”, and

9 (ii) by striking “28 percent (34 percent”
10 and inserting “19.8 percent (17.5 percent”.

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as otherwise pro-
13 vided in this subsection, the amendments made by
14 this section shall apply to taxable years ending after
15 December 31, 1994.

16 (2) CONTRIBUTIONS.—The amendment made
17 by subsection (c)(3) shall apply only to contributions
18 on or after January 1, 1995.

19 (3) WITHHOLDING.—The amendment made by
20 subsection (c)(23) shall apply only to amounts paid
21 after the date of the enactment of this Act.

22 **SEC. 1002. INDEXING OF CERTAIN ASSETS FOR PURPOSES**
23 **OF DETERMINING GAIN OR LOSS.**

24 (a) IN GENERAL.—Part II of subchapter O of chap-
25 ter 1 of the Internal Revenue Code of 1986 (relating to

1 basis rules of general application) is amended by inserting
2 after section 1021 the following new section:

3 **“SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES**
4 **OF DETERMINING GAIN OR LOSS.**

5 “(a) GENERAL RULE.—

6 “(1) INDEXED BASIS SUBSTITUTED FOR AD-
7 JUSTED BASIS.—Except as otherwise provided in
8 this subsection, if an indexed asset which has been
9 held for more than 1 year is sold or otherwise dis-
10 posed of, for purposes of this title the indexed basis
11 of the asset shall be substituted for its adjusted
12 basis.

13 “(2) EXCEPTION FOR DEPRECIATION, ETC.—
14 The deduction for depreciation, depletion, and amor-
15 tization shall be determined without regard to the
16 application of paragraph (1) to the taxpayer or any
17 other person.

18 “(b) INDEXED ASSET.—

19 “(1) IN GENERAL.—For purposes of this sec-
20 tion, the term ‘indexed asset’ means—

21 “(A) stock in a corporation, and

22 “(B) tangible property (or any interest
23 therein),

24 which is a capital asset or property used in the trade
25 or business (as defined in section 1231(b)).

1 “(2) CERTAIN PROPERTY EXCLUDED.—For
2 purposes of this section, the term ‘indexed asset’
3 does not include—

4 “(A) CREDITOR’S INTEREST.—Any interest
5 in property which is in the nature of a credi-
6 tor’s interest.

7 “(B) OPTIONS.—Any option or other right
8 to acquire an interest in property.

9 “(C) NET LEASE PROPERTY.—In the case
10 of a lessor, net lease property (within the mean-
11 ing of subsection (i)(3)).

12 “(D) CERTAIN PREFERRED STOCK.—Stock
13 which is fixed and preferred as to dividends and
14 does not participate in corporate growth to any
15 significant extent.

16 “(E) STOCK IN FOREIGN CORPORA-
17 TIONS.—Stock in a foreign corporation.

18 “(F) STOCK IN S CORPORATIONS.—Stock
19 in an S corporation.

20 “(3) EXCEPTION FOR STOCK IN FOREIGN COR-
21 PORATION WHICH IS REGULARLY TRADED ON NA-
22 TIONAL OR REGIONAL EXCHANGE.—Paragraph
23 (2)(E) shall not apply to stock in a foreign corpora-
24 tion the stock of which is listed on the New York
25 Stock Exchange, the American Stock Exchange, the

1 national market system operated by the National As-
2 sociation of Securities Dealers, or any domestic re-
3 gional exchange for which quotations are published
4 on a regular basis other than—

5 “(A) stock of a foreign investment com-
6 pany (within the meaning of section 1246(b)),

7 “(B) stock in a passive foreign investment
8 company (as defined in section 1296), and

9 “(C) stock in a foreign corporation held by
10 a United States person who meets the require-
11 ments of section 1248(a)(2).

12 “(4) TREATMENT OF AMERICAN DEPOSITORY
13 RECEIPTS.—For purposes of this section, an Amer-
14 ican depository receipt for stock in a foreign cor-
15 poration shall be treated as stock in such corpora-
16 tion.

17 “(c) INDEXED BASIS.—For purposes of this sec-
18 tion—

19 “(1) GENERAL RULE.—The indexed basis for
20 any asset is—

21 “(A) the adjusted basis of the asset, multi-
22 plied by

23 “(B) the applicable inflation ratio.

1 “(2) APPLICABLE INFLATION RATIO.—The ap-
2 plicable inflation ratio for any asset is the percent-
3 age arrived at by dividing—

4 “(A) the gross domestic product deflator
5 for the calendar quarter in which the disposi-
6 tion takes place, by

7 “(B) the gross domestic product deflator
8 for the calendar quarter in which the asset was
9 acquired by the taxpayer (or, if later, the cal-
10 endar quarter ending on December 31, 1994).

11 The applicable inflation ratio shall never be less than
12 1. The applicable inflation ratio for any asset shall
13 be rounded to the nearest $\frac{1}{1000}$.

14 “(3) GROSS DOMESTIC PRODUCT DEFLATOR.—
15 The gross domestic product deflator for any cal-
16 endar quarter is the implicit price deflator for the
17 gross domestic product for such quarter (as shown
18 in the first revision thereof).

19 “(d) SHORT SALES.—

20 “(1) IN GENERAL.—In the case of a short sale
21 of an indexed asset with a short sale period in excess
22 of 1 year, for purposes of this title, the amount real-
23 ized shall be an amount equal to the amount realized
24 (determined without regard to this paragraph) mul-
25 tiplied by the applicable inflation ratio. In applying

1 subsection (c)(2) for purposes of the preceding sen-
2 tence, the date on which the property is sold short
3 shall be treated as the date of acquisition and the
4 closing date for the sale shall be treated as the date
5 of disposition.

6 “(2) SHORT SALE OF SUBSTANTIALLY IDEN-
7 TICAL PROPERTY.—If the taxpayer or the taxpayer’s
8 spouse sells short property substantially identical to
9 an asset held by the taxpayer, the asset held by the
10 taxpayer and the substantially identical property
11 shall not be treated as indexed assets for the short
12 sale period.

13 “(3) SHORT SALE PERIOD.—For purposes of
14 this subsection, the short sale period begins on the
15 day after property is sold and ends on the closing
16 date for the sale.

17 “(e) TREATMENT OF REGULATED INVESTMENT
18 COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

19 “(1) ADJUSTMENTS AT ENTITY LEVEL.—

20 “(A) IN GENERAL.—Except as otherwise
21 provided in this paragraph, the adjustment
22 under subsection (a) shall be allowed to any
23 qualified investment entity (including for pur-
24 poses of determining the earnings and profits of
25 such entity).

1 “(B) EXCEPTION FOR QUALIFICATION
2 PURPOSES.—This section shall not apply for
3 purposes of sections 851(b) and 856(c).

4 “(2) ADJUSTMENTS TO INTERESTS HELD IN
5 ENTITY.—

6 “(A) IN GENERAL.—Stock in a qualified
7 investment entity shall be an indexed asset for
8 any calendar month in the same ratio as the
9 fair market value of the assets held by such en-
10 tity at the close of such month which are in-
11 dexed assets bears to the fair market value of
12 all assets of such entity at the close of such
13 month.

14 “(B) RATIO OF 90 PERCENT OR MORE.—If
15 the ratio for any calendar month determined
16 under subparagraph (A) would (but for this
17 subparagraph) be 90 percent or more, such
18 ratio for such month shall be 100 percent.

19 “(C) RATIO OF 10 PERCENT OR LESS.—If
20 the ratio for any calendar month determined
21 under subparagraph (A) would (but for this
22 subparagraph) be 10 percent or less, such ratio
23 for such month shall be zero.

24 “(D) VALUATION OF ASSETS IN CASE OF
25 REAL ESTATE INVESTMENT TRUSTS.—Nothing

1 in this paragraph shall require a real estate in-
2 vestment trust to value its assets more fre-
3 quently than once each 36 months (except
4 where such trust ceases to exist). The ratio
5 under subparagraph (A) for any calendar
6 month for which there is no valuation shall be
7 the trustee's good faith judgment as to such
8 valuation.

9 “(3) QUALIFIED INVESTMENT ENTITY.—For
10 purposes of this subsection, the term ‘qualified in-
11 vestment entity’ means—

12 “(A) a regulated investment company
13 (within the meaning of section 851), and

14 “(B) a real estate investment trust (within
15 the meaning of section 856).

16 “(f) OTHER PASS-THRU ENTITIES.—

17 “(1) PARTNERSHIPS.—In the case of a partner-
18 ship, the adjustment made under subsection (a) at
19 the partnership level shall be passed through to the
20 partners.

21 “(2) S CORPORATIONS.—In the case of an S
22 corporation, the adjustment made under subsection
23 (a) at the corporate level shall be passed through to
24 the shareholders.

1 “(3) COMMON TRUST FUNDS.—In the case of a
2 common trust fund, the adjustment made under sub-
3 section (a) at the trust level shall be passed through
4 to the participants.

5 “(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

6 “(1) IN GENERAL.—This section shall not apply
7 to any sale or other disposition of property between
8 related persons except to the extent that the basis
9 of such property in the hands of the transferee is a
10 substituted basis.

11 “(2) RELATED PERSONS DEFINED.—For pur-
12 poses of this section, the term ‘related persons’
13 means—

14 “(A) persons bearing a relationship set
15 forth in section 267(b), and

16 “(B) persons treated as single employer
17 under subsection (b) or (c) of section 414.

18 “(h) TRANSFERS TO INCREASE INDEXING ADJUST-
19 MENT.—If any person transfers cash, debt, or any other
20 property to another person and the principal purpose of
21 such transfer is to secure or increase an adjustment under
22 subsection (a), the Secretary may disallow part or all of
23 such adjustment or increase.

24 “(i) SPECIAL RULES.—For purposes of this section:

1 “(1) TREATMENT AS SEPARATE ASSET.—In the
2 case of any asset, the following shall be treated as
3 a separate asset:

4 “(A) A substantial improvement to prop-
5 erty.

6 “(B) In the case of stock of a corporation,
7 a substantial contribution to capital.

8 “(C) Any other portion of an asset to the
9 extent that separate treatment of such portion
10 is appropriate to carry out the purposes of this
11 section.

12 “(2) ASSETS WHICH ARE NOT INDEXED ASSETS
13 THROUGHOUT HOLDING PERIOD.—The applicable in-
14 flation ratio shall be appropriately reduced for peri-
15 ods during which the asset was not an indexed asset.

16 “(3) NET LEASE PROPERTY DEFINED.—The
17 term ‘net lease property’ means leased property
18 where—

19 “(A) the term of the lease (taking into ac-
20 count options to renew) was 50 percent or more
21 of the useful life of the property, and

22 “(B) for the period of the lease, the sum
23 of the deductions with respect to such property
24 which are allowable to the lessor solely by rea-
25 son of section 162 (other than rents and reim-

1 bursed amounts with respect to such property)
2 is 15 percent or less of the rental income pro-
3 duced by such property.

4 “(4) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a
5 corporation which is not a dividend shall be treated
6 as a disposition.
7

8 “(5) SECTION CANNOT INCREASE ORDINARY
9 LOSS.—To the extent that (but for this paragraph)
10 this section would create or increase a net ordinary
11 loss to which section 1231(a)(2) applies or an ordi-
12 nary loss to which any other provision of this title
13 applies, such provision shall not apply. The taxpayer
14 shall be treated as having a long-term capital loss in
15 an amount equal to the amount of the ordinary loss
16 to which the preceding sentence applies.

17 “(6) ACQUISITION DATE WHERE THERE HAS
18 BEEN PRIOR APPLICATION OF SUBSECTION (a)(1)
19 WITH RESPECT TO THE TAXPAYER.—If there has
20 been a prior application of subsection (a)(1) to an
21 asset while such asset was held by the taxpayer, the
22 date of acquisition of such asset by the taxpayer
23 shall be treated as not earlier than the date of the
24 most recent such prior application.

1 “(7) COLLAPSIBLE CORPORATIONS.—The appli-
2 cation of section 341(a) (relating to collapsible cor-
3 porations) shall be determined without regard to this
4 section.

5 “(j) REGULATIONS.—The Secretary shall prescribe
6 such regulations as may be necessary or appropriate to
7 carry out the purposes of this section.”

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for part II of subchapter O of chapter 1 of such Code
10 is amended by inserting after the item relating to section
11 1021 the following new item:

“Sec. 1022. Indexing of certain assets for purposes of determining
gain or loss.”

12 (c) ADJUSTMENT TO APPLY FOR PURPOSES OF DE-
13 TERMINING EARNINGS AND PROFITS.—Subsection (f) of
14 section 312 of such Code (relating to effect on earnings
15 and profits of gain or loss and of receipt of tax-free dis-
16 tributions) is amended by adding at the end thereof the
17 following new paragraph:

18 “(3) EFFECT ON EARNINGS AND PROFITS OF
19 INDEXED BASIS.—

**For substitution of indexed basis for adjusted
basis in the case of the disposition of certain assets,
see section 1022(a)(1).”**

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to dispositions after December 31,
22 1994, in taxable years ending after such date.

1 **SEC. 1003. CAPITAL LOSS DEDUCTION ALLOWED WITH RE-**
2 **SPECT TO SALE OR EXCHANGE OF PRINCIPAL**
3 **RESIDENCE.**

4 (a) IN GENERAL.—Subsection (c) of section 165 of
5 the Internal Revenue Code of 1986 (relating to limitation
6 on losses of individuals) is amended by striking “and” at
7 the end of paragraph (2), by striking the period at the
8 end of paragraph (3) and inserting “; and”, and by adding
9 at the end the following new paragraph:

10 “(4) losses arising from the sale or exchange of
11 the principal residence (within the meaning of sec-
12 tion 1034) of the taxpayer.”

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall apply to sales and exchanges after De-
15 cember 31, 1994, in taxable years ending after such date.

16 **TITLE II—NEUTRAL COST**
17 **RECOVERY**

18 **SEC. 2001. DEPRECIATION ADJUSTMENT FOR CERTAIN**
19 **PROPERTY PLACED IN SERVICE AFTER DE-**
20 **CEMBER 31, 1994.**

21 (a) IN GENERAL.—Section 168 of the Internal Reve-
22 nue Code of 1986 (relating to accelerated cost recovery
23 system) is amended by adding at the end thereof the fol-
24 lowing new subsection:

1 “(k) DEDUCTION ADJUSTMENT TO ALLOW EQUIVA-
2 LENT OF EXPENSING FOR CERTAIN PROPERTY PLACED
3 IN SERVICE AFTER DECEMBER 31, 1994.—

4 “(1) IN GENERAL.—In the case of tangible
5 property placed in service after December 31, 1994,
6 the deduction under this section with respect to such
7 property—

8 “(A) shall be determined by substituting
9 ‘150 percent’ for ‘200 percent’ in subsection
10 (b)(1) in the case of property to which the 200
11 percent declining balance method would other-
12 wise apply, and

13 “(B) for any taxable year after the taxable
14 year during which the property is placed in
15 service shall be—

16 “(i) the amount determined under this
17 section for such taxable year without re-
18 gard to this subparagraph, multiplied by

19 “(ii) the applicable neutral cost recov-
20 ery ratio for such taxable year.

21 “(2) APPLICABLE NEUTRAL COST RECOVERY
22 RATIO.—For purposes of paragraph (1)—

23 “(A) IN GENERAL.—The applicable neutral
24 cost recovery ratio for the property for any tax-
25 able year is the number determined by—

1 “(i) dividing—

2 “(I) the gross domestic product
3 deflator for the calendar quarter end-
4 ing in such taxable year which cor-
5 responds to the calendar quarter dur-
6 ing which the property was placed in
7 service by the taxpayer, by

8 “(II) the gross domestic product
9 deflator for the calendar quarter dur-
10 ing which the property was placed in
11 service by the taxpayer, and

12 “(ii) then multiplying the number de-
13 termined under clause (i) by the number
14 equal to 1.035 to the nth power where ‘n’
15 is the number of full years in the period
16 beginning on the 1st day of the calendar
17 quarter during which the property was
18 placed in service by the taxpayer and end-
19 ing on the day before the beginning of the
20 corresponding calendar quarter ending
21 during such taxable year.

22 The applicable neutral cost recovery ratio shall
23 never be less than 1. The applicable neutral
24 cost recovery ratio shall be rounded to the near-
25 est $\frac{1}{1000}$.

1 “(B) SPECIAL RULE FOR CERTAIN PROP-
2 PERTY.—In the case of property described in
3 paragraph (2) or (3) of subsection (b) or in
4 subsection (g), the applicable neutral cost recov-
5 ery ratio shall be determined without regard to
6 subparagraph (A)(ii).

7 “(3) GROSS DOMESTIC PRODUCT DEFLATOR.—
8 For purposes of paragraph (2), the gross domestic
9 product deflator for any calendar quarter is the im-
10 plicit price deflator for the gross domestic product
11 for such quarter (as shown in the first revision
12 thereof).

13 “(4) COORDINATION WITH INDEXING OF BASIS
14 FOR PURPOSES OF DETERMINING GAIN OR LOSS.—
15 Section 1022 shall not apply to any property to
16 which this subsection applies.

17 “(5) ELECTION NOT TO HAVE SUBSECTION
18 APPLY.—This subsection shall not apply to any
19 property if the taxpayer elects not to have this sub-
20 section apply to such property. Such an election,
21 once made, shall be irrevocable.

22 “(6) CHURNING TRANSACTIONS.—This sub-
23 section shall not apply to any property if this section
24 would not apply to such property were subsection

1 (f)(5)(A)(ii) applied by substituting ‘1995’ for
2 ‘1981’ and ‘1994’ for ‘1980’.

3 “(7) ADDITIONAL DEDUCTION NOT TO AFFECT
4 BASIS OR RECAPTURE.—The additional amount de-
5 termined under this section by reason of this sub-
6 section shall not be taken into account in determin-
7 ing the adjusted basis of any property or of any in-
8 terest in a pass-thru entity (as defined in section
9 1201(d)(2)) which holds such property and shall not
10 be treated as a deduction for depreciation for pur-
11 poses of sections 1245 and 1250.”

12 (b) MINIMUM TAX TREATMENT.—

13 (1) Paragraph (1) of section 56(a) of such Code
14 is amended by adding at the end thereof the follow-
15 ing new subparagraph:

16 “(E) USE OF NEUTRAL COST RECOVERY
17 RATIO.—In the case of property to which sec-
18 tion 168(k) applies and which is placed in serv-
19 ice after December 31, 1994, the deduction al-
20 lowable under this paragraph with respect to
21 such property for any taxable year (after the
22 taxable year during which the property is
23 placed in service) shall be—

1 “(i) the amount so allowable for such
2 taxable year without regard to this sub-
3 paragraph, multiplied by

4 “(ii) the applicable neutral cost recov-
5 ery ratio for such taxable year (as deter-
6 mined under section 168(k)).

7 This subparagraph shall not apply to any prop-
8 erty with respect to which there is an election
9 in effect not to have section 168(k) apply.”

10 (2) Subparagraph (C) of section 56(g)(4) of
11 such Code is amended by adding at the end the fol-
12 lowing new clause:

13 “(v) NEUTRAL COST RECOVERY DE-
14 DUCTION.—Clause (i) shall not apply to
15 the additional deduction allowable by rea-
16 son of section 168(k).”

17 (c) COORDINATION WITH DEPRECIATION LIMITA-
18 TION ON CERTAIN AUTOMOBILES.—Clause (i) of section
19 280F(a)(1)(B) of such Code is amended by adding at the
20 end the following new sentence: “For purposes of this
21 clause, the unrecovered basis of any passenger automobile
22 shall be treated as including the additional amount deter-
23 mined under section 168 by reason of subsection (k) there-
24 of to the extent not allowed as a deduction by reason of

1 this paragraph for any taxable year in the recovery pe-
2 riod.”

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years ending after De-
5 cember 31, 1994.

6 **TITLE III—RISK ASSESSMENT**
7 **AND COST/BENEFIT ANALYSIS**
8 **FOR NEW REGULATIONS**

9 **SEC. 3001. FINDINGS.**

10 The Congress finds that:

11 (1) Environmental, health, and safety regula-
12 tions have led to dramatic improvements in the envi-
13 ronment and have significantly reduced human
14 health risk; however, the Federal regulations that
15 have led to these improvements have been more cost-
16 ly and less effective than they could have been; too
17 often, regulatory priorities have not been based upon
18 a realistic consideration of risk, risk reduction op-
19 portunities, and costs.

20 (2) The public and private resources available
21 to address health, safety, and environmental con-
22 cerns are not unlimited; those resources need to be
23 allocated to address the greatest needs in the most
24 cost-effective manner and so that the incremental

1 costs of regulatory options are reasonably related to
2 the incremental benefits.

3 (3) To provide more cost-effective and cost-
4 reasonable protection to human health and the envi-
5 ronment, regulatory priorities should be based upon
6 realistic consideration of risk; the priority setting
7 process must include scientifically sound, objective,
8 and unbiased risk assessments, comparative risk
9 analysis, and risk management choices that are
10 grounded in cost-benefit principles.

11 (4) Risk assessment has proven to be a useful
12 decision making tool; however, improvements are
13 needed in both the quality of assessments and the
14 characterization and communication of findings; sci-
15 entific and other data must be better collected, orga-
16 nized, and evaluated; most importantly, the critical
17 information resulting from a risk assessment must
18 be effectively communicated in an objective and un-
19 biased manner to decision makers, and from decision
20 makers to the public.

21 (5) The public stake holders must be fully in-
22 volved in the risk-decision making process. They
23 have the right-to-know about the risks addressed by
24 regulation, the amount of risk to be reduced, the
25 quality of the science used to support decisions, and

1 the cost of implementing and complying with regula-
2 tions. This knowledge will allow for public scrutiny
3 and promote quality, integrity, and responsiveness of
4 agency decisions.

5 **Subtitle A—Risk Assessment and**
6 **Communication**

7 **SEC. 3101. SHORT TITLE.**

8 This subtitle may be cited as the “Risk Assessment
9 and Communication Act of 1995”.

10 **SEC. 3102. PURPOSES.**

11 The purposes of this subtitle are—

12 (1) to present the public and executive branch
13 with the most scientifically objective and unbiased
14 information concerning the nature and magnitude of
15 health, safety, and environmental risks in order to
16 provide for sound regulatory decisions and public
17 education;

18 (2) to provide for full consideration and discus-
19 sion of relevant data and potential methodologies;

20 (3) to require explanation of significant choices
21 in the risk assessment process which will allow for
22 better peer review and public understanding; and

23 (4) to improve consistency within the executive
24 branch in preparing risk assessments and risk char-
25 acterizations.

1 **SEC. 3103. EFFECTIVE DATE; APPLICABILITY; SAVINGS**
2 **PROVISIONS.**

3 (a) EFFECTIVE DATE.—Except as otherwise specifi-
4 cally provided in this subtitle, the provisions of this sub-
5 title shall take effect 18 months after the date of enact-
6 ment of this subtitle.

7 (b) APPLICABILITY.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), this title applies to all risk assessments
10 and risk characterizations prepared by, or on behalf
11 of, any Federal agency in connection with Federal
12 regulatory programs designed to protect human
13 health, safety, or the environment.

14 (2) EXCEPTIONS.—(A) This title does not apply
15 to risk assessments or risk characterizations per-
16 formed with respect to either of the following:

17 (i) A situation that the head of the agency
18 considers to be an emergency.

19 (ii) A screening analysis, including a
20 screening analysis for purposes of product regu-
21 lation, product reregistration, or
22 premanufacturing notices.

23 (B) No analysis shall be treated as a screening
24 analysis for purposes of subparagraph (A) if the re-
25 sults of such analyses are used either—

1 (i) as the basis for imposing restrictions on
2 substances or activities, or

3 (ii) to characterize a positive finding of
4 risks from substances or activities in any final
5 agency document made available to the general
6 public.

7 (3) LABELS.—This title shall not apply to any
8 food, drug, or other product label or to any risk
9 characterization appearing on any such label.

10 (c) SAVINGS PROVISIONS.—Nothing in this subtitle
11 shall be construed to modify any statutory standard or re-
12 quirement designed to protect health, safety, or the envi-
13 ronment. Nothing in this subtitle shall be interpreted to
14 preclude the consideration of any data or the calculation
15 of any estimate to more fully describe risk or provide ex-
16 amples of scientific uncertainty or variability. Nothing in
17 this title shall be construed to require the disclosure of
18 any trade secret or other confidential information.

19 **SEC. 3104. PRINCIPLES FOR RISK ASSESSMENT.**

20 (a) IN GENERAL.—The head of each Federal agency
21 shall apply the principles set forth in subsection (b) when
22 preparing risk assessments in order to assure that such
23 risk assessments and all of their components distinguish
24 scientific findings from other considerations and are, to
25 the maximum extent feasible, scientifically objective, unbi-

1 ased, and inclusive of all relevant data. Discussions or ex-
2 planations required under this section need not be re-
3 peated in each risk assessment document as long as there
4 is a reference to the relevant discussion or explanation in
5 another agency document.

6 (b) PRINCIPLES.—The principles to be applied when
7 preparing risk assessments are as follows:

8 (1) When assessing human health risks, a risk
9 assessment shall consider and discuss both labora-
10 tory and epidemiological data of sufficient quality
11 which finds, or fails to find, a correlation between
12 health risks and a potential toxin or activity. Where
13 conflicts among such data appear to exist, or where
14 animal data is used as a basis to assess human
15 health, the assessment shall include discussion of
16 possible reconciliation of conflicting information, and
17 as appropriate, differences in study designs, com-
18 parative physiology, routes of exposure,
19 bioavailability, pharmacokinetics, and any other rel-
20 evant factor.

21 (2) Where a risk assessment involves selection
22 of any significant assumption, inference, or model,
23 the Federal agency preparing the assessment shall—

1 (A) present a representative list and expla-
2 nation of plausible and alternative assumptions,
3 inferences, or models;

4 (B) explain the basis for any choices;

5 (C) identify any policy or value judgments;

6 (D) fully describe any model used in the
7 risk assessment and make explicit the assump-
8 tions incorporated in the model; and

9 (E) indicate the extent to which any sig-
10 nificant model has been validated by, or con-
11 flicts with, empirical data.

12 **SEC. 3105. PRINCIPLES FOR RISK CHARACTERIZATION AND**
13 **COMMUNICATION.**

14 In characterizing risk in any risk assessment docu-
15 ment, regulatory proposal or decision, report to Congress,
16 or other document which is made available to the public,
17 each Federal agency characterizing the risk shall comply
18 with each of the following:

19 (1) ESTIMATES OF RISK.—The head of such
20 agency shall describe the populations or natural re-
21 sources which are the subject of the risk character-
22 ization. If a numerical estimate of risk is provided,
23 the agency shall, to the extent feasible and scientif-
24 ically appropriate, provide—

1 (A) the best estimate or estimates for the
2 specific populations or natural resources which
3 are the subject of the characterization (based
4 on the information available to the department,
5 agency, or instrumentality); and

6 (B) a statement of the reasonable range of
7 scientific uncertainties.

8 In addition to such best estimate or estimates, the
9 Federal agency may present plausible upper-bound
10 or conservative estimates in conjunction with plau-
11 sible lower bounds estimates. Where appropriate, the
12 Federal agency may present, in lieu of a single best
13 estimate, multiple estimates based on assumptions,
14 inferences, or models which are equally plausible,
15 given current scientific understanding. To the extent
16 practical and appropriate, the Federal agency shall
17 provide descriptions of the distribution and prob-
18 ability of risk estimates to reflect differences in ex-
19 posure variability in populations and uncertainties.

20 (2) EXPOSURE SCENARIOS.—The Federal agen-
21 cy shall explain the exposure scenarios used in any
22 risk assessment, and, to the extent feasible, provide
23 a statement of the size of the corresponding popu-
24 lation at risk and the likelihood of such exposure
25 scenarios.

1 (3) COMPARISONS.—To the extent feasible, the
2 Federal agency shall provide a statement that places
3 the nature and magnitude of risks to human health
4 in context. Such statement shall include appropriate
5 comparisons with estimates of risks that are familiar
6 to and routinely encountered by the general public
7 as well as other risks. The statement shall identify
8 relevant distinctions among categories of risk and
9 limitations to comparisons.

10 (4) SUBSTITUTION RISKS.—When a Federal
11 agency provides a risk assessment or risk character-
12 ization for a proposed or final regulatory action,
13 such assessment or characterization shall include a
14 statement of any significant substitution risks to
15 human health, where information on such risks has
16 been provided to the agency.

17 (5) SUMMARIES OF OTHER RISK ESTIMATES.—
18 If—

19 (A) a Federal agency provides a public
20 comment period with respect to a risk assess-
21 ment or regulation,

22 (B) a commenter provides a risk assess-
23 ment, and a summary of results of such risk as-
24 sessment, and

1 (C) such risk assessment is consistent with
2 the principles and the guidance provided under
3 this subtitle,

4 the agency shall present such summary in connec-
5 tion with the presentation of the agency's risk as-
6 sessment or the regulation.

7 **SEC. 3106. GUIDELINES, PLAN FOR ASSESSING NEW INFOR-**
8 **MATION, AND REPORT.**

9 (a) GUIDELINES.—Within 15 months after the date
10 of enactment of this subtitle, the President shall issue
11 guidelines for Federal agencies consistent with the risk as-
12 sessment and characterization principles set forth in sec-
13 tions 3104 and 3105 and shall provide a format for sum-
14 marizing risk assessment results. In addition, such guide-
15 lines shall include guidance on at least the following sub-
16 jects: criteria for scaling animal studies to assess risks to
17 human health; use of different types of dose-response
18 models; thresholds; definitions, use, and interpretations of
19 the maximum tolerated dose; weighting of evidence with
20 respect to extrapolating human health risks from sensitive
21 species; evaluation of benign tumors, and evaluation of dif-
22 ferent human health endpoints.

23 (b) PLAN.—Within 18 months after the date of en-
24 actment of this subtitle, each Federal agency shall publish
25 a plan to review and revise any risk assessment published

1 prior to the expiration of such 18-month period if the
2 agency determines that significant new information or
3 methodologies are available that could significantly alter
4 the results of the prior risk assessment. The plan shall
5 provide procedures for receiving and considering new in-
6 formation and risk assessments from the public. The plan
7 may set priorities for review and revision of risk assess-
8 ments based on factors such Federal agency considers ap-
9 propriate.

10 (c) REPORT.—Within 3 years after the enactment of
11 this subtitle, each Federal agency shall provide a report
12 to the Congress evaluating the categories of policy and
13 value judgments identified under subparagraph (C) of sec-
14 tion 3104(b)(2).

15 (d) PUBLIC COMMENT AND CONSULTATION.—The
16 guidelines, plan and report under this section, shall be de-
17 veloped after notice and opportunity for public comment,
18 and after consultation with representatives of appropriate
19 State agencies and local governments, and such other de-
20 partments and agencies, offices, organizations, or persons
21 as may be advisable.

22 (e) REVIEW.—The President shall review the guide-
23 lines published under this section at least every 4 years.

24 **SEC. 3107. DEFINITIONS.**

25 For purposes of this subtitle:

1 (1) RISK ASSESSMENT.—The term “risk assess-
2 ment” means the process of identifying hazards and
3 quantifying or describing the degree of toxicity, ex-
4 posure, or other risk they pose for exposed individ-
5 uals, populations, or resources. Such term also refers
6 to the document containing the explanation of how
7 the assessment process has been applied to an indi-
8 vidual substance, activity, or condition.

9 (2) RISK CHARACTERIZATION.—The term “risk
10 characterization” means that element of a risk as-
11 sessment that involves presentation of the degree of
12 risk in any regulatory proposal or decision, report to
13 Congress, or other document which is made available
14 to the public. The term includes discussions of un-
15 certainties, conflicting data, estimates, extrapola-
16 tions, inferences, and opinions.

17 (3) BEST ESTIMATE.—The term “best esti-
18 mate” means an estimate which, to the extent fea-
19 sible and scientifically appropriate, is based on one
20 of the following:

21 (A) Central estimates of risk using the
22 most plausible assumptions.

23 (B) An approach which combines multiple
24 estimates based on different scenarios and
25 weighs the probability of each scenario.

1 (C) Any other methodology designed to
2 provide the most unbiased representation of the
3 most plausible level of risk, given the current
4 scientific information available to the Federal
5 agency concerned.

6 (4) SUBSTITUTION RISK.—The term “substi-
7 tution risk” means a potential increased risk to
8 human health, safety, or the environment from a
9 regulatory option designed to decrease other risks.

10 (5) FEDERAL AGENCY.—The term “Federal
11 agency” means an executive department, military de-
12 partment, or independent establishment as defined
13 in part I of title 5 of the United States Code, except
14 that such term also includes the Office of Tech-
15 nology Assessment.

16 **Subtitle B—Analysis of Risk**
17 **Reduction Benefits and Costs**

18 **SEC. 3201. ANALYSIS OF RISK REDUCTION BENEFITS AND**
19 **COSTS.**

20 (a) IN GENERAL.—Except as provided in subsection
21 (b), the President shall require each executive branch
22 agency to prepare the following for each major rule de-
23 signed to protect human health, safety, or the environment
24 that is proposed or promulgated by the agency after the
25 date of enactment of this Act:

1 (1) For each such proposed or promulgated
2 rule, an assessment of incremental costs and incre-
3 mental risk reduction or other benefits associated
4 with each significant regulatory alternative consid-
5 ered by the agency in connection with the rule or
6 proposed rule.

7 (2) For each such proposed or promulgated
8 rule, to the extent feasible, a comparison of any
9 human health, safety, or environmental risks ad-
10 dressed by the regulatory alternatives to other risks
11 chosen by the head of the agency, including at least
12 3 other risks regulated by the agency and to at least
13 3 other risks with which the public is familiar.

14 (3) For each such proposed or promulgated
15 rule, a statement of other human health risks poten-
16 tially posed by implementing or complying with the
17 regulatory alternatives, including substitution risks.

18 (4) For each final rule, an assessment of the
19 costs and risk reduction or other benefits associated
20 with implementation of, and compliance with, the
21 rule.

22 (5) For each final rule, a certification by the
23 head of the agency of each of the following:

24 (A) A certification that the assessment
25 under paragraph (4) is based on an objective

1 and unbiased scientific and economic evaluation
2 of all significant and relevant information pro-
3 vided to the agency by interested parties relat-
4 ing to the costs, risks, and risk reduction or
5 other benefits addressed by the rule. Such in-
6 formation shall have been subjected to peer re-
7 view to the extent required by section 3301.

8 (B) A certification that the rule will sub-
9 stantially advance the purpose of protecting
10 human health or the environment, as applicable,
11 against the risk addressed by the rule.

12 (C) A certification that the rule will
13 produce benefits to human health or the envi-
14 ronment that will justify the costs incurred by
15 local and State governments, the Federal Gov-
16 ernment, and other public and private entities
17 as a result of implementation of and compliance
18 with the rule, as determined under paragraph
19 (1).

20 (D) A certification that there is no regu-
21 latory alternative that is allowed by the statute
22 under which the regulation is promulgated that
23 would achieve an equivalent reduction in risk in
24 a more cost-effective manner, along with a brief
25 explanation of why other regulatory alternatives

1 that were considered by the head of the agency
2 were found to be less cost-effective.

3 (b) PUBLICATION.—For each major rule referred to
4 in subsection (a) the head of each agency shall publish
5 in a clear and concise manner in the Federal Register
6 along with the proposed or final regulation, or otherwise
7 make publicly available, the information required to be
8 prepared under subsection (a) of this section.

9 (c) DEFINITIONS.—For purposes of this section:

10 (1) COSTS.—The term “costs” includes the di-
11 rect and indirect costs to the United States govern-
12 ment, costs to State and local governments, and
13 costs to the private sector, of implementing and
14 complying with a regulatory action.

15 (2) MAJOR RULE.— The term “major rule”
16 means any regulation that is likely to result in one
17 or more of the following:

18 (A) An annual effect on the economy of
19 \$25,000,000 or more.

20 (B) A major increase in costs or prices for
21 consumers, individual industries, Federal,
22 State, or local government agencies, or geo-
23 graphic regions.

24 (C) Significant adverse effects on competi-
25 tion, employment, investment, productivity, in-

1 novation, or on the ability of United States-
2 based enterprises to compete with foreign-based
3 enterprises in domestic or export markets.

4 **Subtitle C—Peer Review**

5 **SEC. 3301. PEER REVIEW PROGRAM.**

6 (a) ESTABLISHMENT.—For regulatory programs ad-
7 dressing human health, safety, or the environment, the
8 head of each Federal agency shall develop a systematic
9 program for peer review of risk assessments and economic
10 assessments used by the agency. Such program shall be
11 applicable across the agency and—

12 (1) shall provide for the creation of peer review
13 panels consisting of independent and external ex-
14 perts who are broadly representative and balanced to
15 the extent feasible;

16 (2) may provide for differing levels of peer re-
17 view depending on the significance or the complexity
18 of the problems or the need for expeditiousness;

19 (3) shall not exclude peer reviewers merely be-
20 cause they represent entities that may have a poten-
21 tial interest in the outcome, provided that interest is
22 fully disclosed to the agency; and

23 (4) shall provide open opportunity to become
24 part of a peer review panel at a minimum by solicit-

1 ing nominations through a Federal Register an-
2 nouncement.

3 (b) REQUIREMENT FOR PEER REVIEW.—Each Fed-
4 eral agency shall provide for peer review of scientific and
5 economic information used for purposes of any evaluation
6 under section 3201(a)(5)(A) or for purposes of any signifi-
7 cant risk or cost assessment prepared in connection with
8 a major rule. In addition, the Director of the Office of
9 Management and Budget shall order that peer review be
10 provided for any major risk assessment or cost assessment
11 that may have a significant impact on public policy deci-
12 sions.

13 (c) CONTENTS.—

14 (1) IN GENERAL.—Each peer review under this
15 section shall include a report to the Federal agency
16 concerned with respect to each of the following:

17 (A) An evaluation of the technical, sci-
18 entific, and economic merit of the data and
19 methods used for the assessment and analysis.

20 (B) A list of any considerations that were
21 not taken into account in the assessment and
22 analysis, but were considered appropriated by a
23 majority of the members of the peer review
24 panel.

1 (C) A discussion of the methodology used
2 for the assessment and analysis.

3 (2) COMMENTS AND APPENDIX.—Each peer re-
4 view report under this subsection shall include—

5 (A) all comments supported by a majority
6 of the members of the peer review panel sub-
7 mitting the report; and

8 (B) an appendix which sets forth the dis-
9 senting opinions that any peer review panel
10 member wants to express.

11 (3) SEPARATION OF ASSESSMENTS.—Peer re-
12 view of human health, safety, environmental, and
13 economic assessments may be separated for purpose
14 of this subtitle.

15 (d) RESPONSE TO PEER REVIEW.—The head of the
16 Federal agency shall provide a written response to all sig-
17 nificant peer review comments.

18 (e) AVAILABILITY TO PUBLIC.—All peer review com-
19 ments or conclusions and the agency's responses shall be
20 made available to the public and shall be made part of
21 the administrative record for purposes of judicial review
22 of any final agency action.

23 (f) PREVIOUSLY REVIEWED DATA AND ANALYSIS.—
24 No peer review shall be required under this section for
25 any data or analysis which has been previously subjected

1 to peer review or for any component of any evaluation or
2 assessment previously subjected to peer review.

3 (g) NATIONAL PANELS.—The President shall appoint
4 National Peer Review Panels to annually review the risk
5 assessment and cost assessment practices of each Federal
6 agency for programs designed to protect human health,
7 safety, or the environment. The Panel shall submit a re-
8 port to the Congress no less frequently than annually con-
9 taining the results of such review.

10 (h) MAJOR RULE DEFINED.—For purposes of this
11 section, the term “major rule” has the same meaning as
12 provided by section 3201(c) except that “\$100,000,000”
13 shall be substituted for “\$25,000,000”.

14 **TITLE IV—ESTABLISHMENT OF**
15 **FEDERAL REGULATORY**
16 **BUDGET COST CONTROL**

17 **SEC. 4001. AMENDMENTS TO THE CONGRESSIONAL BUDGET**
18 **ACT OF 1974.**

19 (a) FEDERAL REGULATORY BUDGET COST CONTROL
20 SYSTEM.—Title III of the Congressional Budget Act of
21 1974 is amended by inserting before section 300 the fol-
22 lowing new center heading “**PART A—GENERAL**
23 **PROVISIONS**” and by adding at the end the following
24 new part:

1 **“PART B—FEDERAL REGULATORY BUDGET COST**

2 **CONTROL**

3 **“SEC. 321. OMB-CBO REPORTS.**

4 “(a) OMB-CBO INITIAL REPORT.—Within 1 year
5 after the date of enactment of this section, OMB and CBO
6 shall jointly issue a report to the President and each
7 House of Congress that contains the following:

8 “(1) For the first budget year beginning after
9 the issuance of this report, a projection of the aggregate
10 direct cost to the private sector of complying
11 with all Federal regulations and rules in effect immediately
12 before issuance of the report containing
13 the projection for that budget year of the effect of
14 current-year Federal regulations and rules into the
15 budget year and the outyears based on those regulations
16 and rules.

17 “(2) A calculation of the estimated aggregate
18 direct cost to the private sector of compliance with
19 all Federal regulations and rules as a percentage of
20 the gross domestic product (GDP).

21 “(3) The estimated marginal cost (measured as
22 a reduction in estimated gross domestic product) to
23 the private sector of compliance with all Federal regulations
24 and rules in excess of 5 percent of the gross
25 domestic product.

1 “(4) The effect on the domestic economy of dif-
2 ferent types of Federal regulations and rules.

3 “(5) The appropriate level of personnel, admin-
4 istrative overhead, and programmatic savings that
5 should be achieved on a fiscal year by fiscal year
6 basis by Federal agencies that issue regulations or
7 rules with direct costs to the private sector through
8 the reduction of such aggregate costs to the private
9 sector by equal percentage increments in the 6 years
10 following the budget year until the aggregate level of
11 such costs does not exceed 5 percent of the esti-
12 mated gross domestic product for the same fiscal
13 year as the estimated costs that will be incurred.

14 “(6) Recommendations for budgeting, technical,
15 and estimating changes to improve the Federal regu-
16 latory budgeting process.

17 “(b) UPDATE REPORTS.—OMB and CBO shall issue
18 update reports on September 15th of the fifth year begin-
19 ning after issuance of the initial report and at 5-year in-
20 tervals thereafter containing all the information required
21 in the initial report, but based upon all Federal regula-
22 tions and rules in effect immediately before issuance of
23 the most recent update report.

24 “(c) INITIAL BASELINE REPORT.—Within 30 days
25 after the date of enactment of this section, OMB and CBO

1 shall jointly issue a report to the President and each
2 House of Congress that contains an initial aggregate regu-
3 latory baseline for the first budget year that begins at
4 least 120 days after that date of enactment. That baseline
5 will be a projection of the aggregate direct cost to the pri-
6 vate sector of complying with all Federal regulations and
7 rules in effect immediately before issuance of the report
8 containing the projection for that budget year of the effect
9 of current-year Federal regulations and rules into the
10 budget year and the outyears based on those regulations
11 and rules.

12 **“SEC. 322. AGGREGATE REGULATORY BASELINE.**

13 “(a) IN GENERAL.—For the first budget year begin-
14 ning after the date of enactment of this section and for
15 every other fiscal year thereafter, the aggregate regulatory
16 baseline refers to a projection of the aggregate direct cost
17 to the private sector of complying with all Federal regula-
18 tions and rules in effect immediately before issuance of
19 the report containing the projection for that budget year
20 of the effect of current-year Federal regulations and rules
21 into the budget year and the outyears based on those regu-
22 lations and rules. However, in the case of each of the suc-
23 ceeding fiscal years, the baseline shall be adjusted for the
24 estimated growth during that year in the gross domestic
25 product (GDP).

1 “(b) OMB-CBO AGGREGATE REGULATORY BASE-
2 LINE REPORTS.—(1) The first budget year for which there
3 shall be an aggregate regulatory baseline shall be the
4 budget year to which the initial OMB-CBO baseline report
5 issued under section 321(c) pertains.

6 “(2) In the case of each budget year after the budget
7 year referred to in paragraph (1), not later than Septem-
8 ber 15 of the current year, OMB and CBO shall jointly
9 issue a report containing the baseline referred to in sub-
10 section (a) for that budget year.

11 **“SEC. 323. RECONCILIATION AND ALLOCATIONS.**

12 “(a) RECONCILIATION DIRECTIVES.—In addition to
13 the requirements of section 310, a concurrent resolution
14 on the budget for any fiscal year shall specify—

15 “(1) changes in laws and regulations and rules
16 necessary to reduce the aggregate direct cost to the
17 private sector of complying with all Federal regula-
18 tions by 6.5 percent for the budget year (as meas-
19 ured against the aggregate regulatory baseline for
20 the first budget year to which this part applies) and
21 by equal percentage increments for each of the out-
22 years (until the aggregate level of such costs does
23 not exceed 5 percent of the estimated gross domestic
24 product for the same fiscal year as the estimated
25 costs that will be incurred) for Federal agencies that

1 issue regulations or rules producing direct costs to
2 the private sector; and

3 “(2) changes in laws necessary to achieve re-
4 ductions in the level of personnel and administrative
5 overhead and to achieve programmatic savings for
6 the budget year and the outyears for those agencies
7 of the following:

8 “(A) In the first outyear, one-fourth of the
9 percent of reduction in regulatory authority
10 from the aggregate regulatory base.

11 “(B) In the second outyear, one-third of
12 the percent of reduction in regulatory authority
13 from the aggregate regulatory base.

14 “(C) In the third, fourth, fifth, and sixth
15 years following the budget year, one-half of the
16 percent of reduction in regulatory authority
17 from the aggregate regulatory base.

18 Section 310(c) shall not apply with respect to directions
19 made under this section.

20 “(b) ALLOCATION OF TOTALS.—(1) The Committees
21 on the Budget of the House of Representatives and the
22 Senate shall each allocate aggregate 2-year regulatory au-
23 thority among each committee of its House and by major
24 functional category for the first budget year beginning
25 after the date of enactment of this section and for the

1 second, fourth, and sixth years following the budget year
2 and then every other year thereafter.

3 “(2) As soon as practicable after receiving an alloca-
4 tion under paragraph (1), each committee shall subdivide
5 its allocation among its subcommittees or among pro-
6 grams over which it has jurisdiction.

7 “(c) POINT OF ORDER.—(1) It shall not be in order
8 in the House of Representatives or the Senate to consider
9 any bill or resolution, or amendment thereto, which would
10 cause the appropriate allocation made under subsection
11 (b) for a fiscal year of regulatory authority to be exceeded.

12 “(2) WAIVER.—The point of order set forth in para-
13 graph (1) may only be waived by the affirmative vote of
14 at least three-fifths of the Members voting, a quorum
15 being present.

16 “(d) DETERMINATIONS BY BUDGET COMMITTEES.—
17 For purposes of this section, the level of regulatory au-
18 thority for a fiscal year shall be determined by the Com-
19 mittee on the Budget of the House of Representatives or
20 the Senate, as the case may be.

21 “(e) EXCEEDING ALLOCATION TOTALS.—Whenever
22 any Committee of the House of Representatives exceeds
23 its allocation of aggregate 2-year regulatory authority
24 under subsection (b)(1), any Member of the House of Rep-
25 resentatives may offer a bill in the House (which shall be

1 highly privileged, unamendable, and debateable for 30
2 minutes) which shall only prohibit the issuance of regula-
3 tions and rules by any agency under the jurisdiction of
4 that committee for the fiscal years covered by that alloca-
5 tion until that committee eliminates its breach.

6 **“SEC. 324. ANALYSIS OF REGULATORY COSTS BY CONGRES-**
7 **SIONAL BUDGET OFFICE.**

8 “CBO shall prepare for each bill or resolution of a
9 public character reported by any committee of the House
10 of Representatives or the Senate (except the Committee
11 on Appropriations of each House), and submit to such
12 committee—

13 “(1) an estimate of the costs which would be in-
14 curred by the private sector in carrying out or com-
15 plying with such bill or resolution in the fiscal year
16 in which it is to become effective and in each of the
17 4 fiscal years following such fiscal year, together
18 with the basis of each such estimate; and

19 “(2) a comparison of the estimate of costs de-
20 scribed in paragraph (1) with any available esti-
21 mates of costs made by such committee or by any
22 Federal agency.

23 **“SEC. 325. DEFINITIONS.**

24 “As used in this part:

1 “(1) The term ‘CBO’ refers to the Director of
2 the Congressional Budget Office.

3 “(2) The term ‘OMB’ refers to the Director of
4 the Office of Management and Budget.

5 “(3) The term ‘regulatory authority’ or ‘regu-
6 latory cost’ means the direct cost to the private sec-
7 tor of complying with Federal regulations and rules.

8 “(4) The term ‘direct costs’ means (recognizing
9 that direct costs are not the only costs associated
10 with Federal regulation) all expenditures occurring
11 as a direct result of complying with Federal regula-
12 tion, rule, statement, or legislation, except those ap-
13 plying to the military or agency organization, man-
14 agement, and personnel.

15 “(5) The term ‘regulation’ or the term ‘rule’
16 means any agency statement of general applicability
17 and future effect designed to implement, interpret,
18 or prescribe law or policy or describing the proce-
19 dure or practice requirements of any agency, but
20 does not include—

21 “(A) administrative actions governed by
22 the provisions of sections 556 and 557 of title
23 5, United States Code; or

1 “(B) rules or regulations issued with re-
2 spect to a military or foreign affairs function of
3 the United States.

4 “(6) The term ‘agency’ means any authority of
5 the United States that is an agency under title sec-
6 tion 3502(1) of title 44, United States Code, includ-
7 ing independent agencies.”.

8 **SEC. 4002. PRESIDENT’S ANNUAL BUDGET SUBMISSIONS.**

9 Section 1105(a) of title 31, United States Code, is
10 amended by adding at the end the following new para-
11 graph:

12 “(32) a regulatory authority budget analysis of
13 the aggregate direct cost to the private sector of
14 complying with all current and proposed Federal
15 regulations and rules and proposals for complying
16 with section 323 of the Congressional Budget Act of
17 1974 for the budget year and the outyears.”

18 **SEC. 4003. ESTIMATION AND DISCLOSURE OF COSTS OF**
19 **FEDERAL REGULATION.**

20 Chapter 6 of title 5, United States Code, popularly
21 known as the “Regulatory Flexibility Act”, is amended—

22 (1) in section 603(a) in the second sentence by
23 inserting before the period the following: “and the
24 monetary costs to small entities, other businesses,

1 and individuals of complying with the proposed
2 rule”;

3 (2) by adding at the end of section 603 the
4 following:

5 “(d) Each initial regulatory flexibility analysis shall
6 also contain a description of the nature and amount of
7 monetary costs that will be incurred by small entities,
8 other businesses, and individuals in complying with the
9 proposed rule.”;

10 (3) in section 604(a)—

11 (A) in paragraph (2) by striking “and”
12 after the semicolon;

13 (B) in paragraph (3) by striking the period
14 and inserting “; and”; and

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

16 “(4) a statement of the nature and amount of
17 monetary costs that will be incurred by small enti-
18 ties, other businesses, and individuals in complying
19 with the rule.”; and

20 (4) in section 607 by inserting before the period
21 the following: “, except that estimates of monetary
22 costs under sections 603(d) and 604(a)(4) shall only
23 be in the form of a numerical description”.

1 **TITLE V—STRENGTHENING OF**
2 **PAPERWORK REDUCTION ACT**

3 **SEC. 5001. SHORT TITLE.**

4 This title may be cited as the “Paperwork Reduction
5 Act of 1995”.

6 **Subtitle A—Authorization of**
7 **Appropriations**

8 **SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.**

9 Section 3520(a) of title 44, United States Code, is
10 amended by striking out “\$5,500,000 for each of the fiscal
11 years 1987, 1988, and 1989.” and inserting in lieu thereof
12 “\$7,000,000 for fiscal year 1994, \$7,500,000 for fiscal
13 year 1995, \$8,000,000 for fiscal year 1996, \$8,500,000
14 for fiscal year 1997, and \$9,000,000 for fiscal year
15 1998.”.

16 **Subtitle B—Reducing the Burden**
17 **of Federal Paperwork on the**
18 **Public**

19 **SEC. 5201. COVERAGE OF ALL FEDERALLY SPONSORED PA-**
20 **PERWORK BURDENS.**

21 Section 3502 of title 44, United States Code, is
22 amended—

23 (1) by amending paragraph (3) to read as
24 follows:

1 “(3) the term ‘burden’ means the time, effort,
2 financial resources, and opportunity costs imposed
3 on persons to generate, capture, assemble, process,
4 maintain, and report information to or for a Federal
5 agency, including—

6 “(A) the resources expended for obtaining,
7 reviewing and understanding applicable instruc-
8 tions and requirements;

9 “(B) developing a way to comply with the
10 applicable instructions and requirements;

11 “(C) adjusting the existing ways to comply
12 with any previously applicable instructions and
13 requirements;

14 “(D) searching existing data sources;

15 “(E) obtaining, compiling and maintaining
16 the necessary data;

17 “(F) implementing recordkeeping require-
18 ments;

19 “(G) completing and reviewing the collec-
20 tion of information;

21 “(H) retaining, sharing, notifying, report-
22 ing, transmitting, labeling, or otherwise disclos-
23 ing to third parties or the public the informa-
24 tion involved; and

1 “(I) carrying out any other information
2 transaction which occurs as a result of the
3 collection of information;”;

4 (2) in paragraph (4) by striking out “of facts
5 or opinions by” and inserting in lieu thereof
6 “(through maintenance, retention, notifying, report-
7 ing, labeling or disclosure to third parties or the
8 public) of facts or opinions by or for”; and

9 (3) in paragraph (17) by inserting “, including
10 the retention, reporting, notifying, or disclosure to
11 third parties or the public of such records” before
12 the period.

13 **SEC. 5202. PAPERWORK REDUCTION GOALS.**

14 Section 3505 of title 44, United States Code, is
15 amended to read as follows:

16 **“§ 3505. Assignment of tasks and deadlines**

17 “In carrying out the functions under this chapter, the
18 Director shall—

19 “(1) set a governmentwide goal, consistent with
20 improving agency management of the process for the
21 review of each collection of information established
22 under section 3506(e), to reduce by September 30,
23 1995, the burden of Federal collections of informa-
24 tion existing on September 30, 1994, by at least 5
25 percent;

1 “(2) for the fiscal year beginning on October 1,
2 1995, and the following 3 fiscal years, set a govern-
3 mentwide goal, consistent with improving agency
4 management of the process for the review of each
5 collection of information established under section
6 3506(e), to reduce the burden of Federal collections
7 of information existing at the end of the immediately
8 preceding fiscal year by at least 5 percent;

9 “(3) in establishing the governmentwide goal
10 pursuant to paragraph (2), establish a goal for each
11 agency that—

12 “(A) represents the maximum practicable
13 opportunity to reduce the paperwork burden
14 imposed upon the public by such agency’s col-
15 lections of information, after considering the
16 recommendations of the senior agency official
17 designated under section 3506(b)(1); and

18 “(B) permits the attainment of the govern-
19 mentwide goal when such agency’s goal is ag-
20 gregated with the individual goals of all other
21 agencies included in the governmentwide goal;
22 and

23 “(4) in each report issued under section 3514,
24 beginning with the report relating to fiscal year
25 1995, identify any agency initiatives to reduce the

1 burden of the Federal collections of information as-
2 sociated with—

3 “(A) businesses, especially small businesses
4 and those engaged in international competition;
5 “(B) State and local governments; and
6 “(C) educational institutions.”.

7 **Subtitle C—Enhancing Govern-**
8 **ment Responsibility and Ac-**
9 **countability for Reducing the**
10 **Burden of Federal Paperwork**

11 **SEC. 5301. REEMPHASIZING THE RESPONSIBILITY OF THE**
12 **DIRECTOR TO CONTROL THE BURDEN OF**
13 **FEDERAL PAPERWORK.**

14 Section 3504(c) of title 44, United States Code, is
15 amended—

16 (1) in paragraph (3) by redesignating subpara-
17 graphs (B) and (C) as subparagraphs (C) and (D),
18 respectively, and inserting after subparagraph (A)
19 the following new subparagraph:

20 “(B) display, to the extent practicable, an
21 estimate of the burden for each response;”;

22 (2) by amending paragraphs (5) and (6) to
23 read as follows:

24 “(5) establishing procedures under which an
25 agency is to estimate the burden under this chapter

1 to comply with the proposed collection of informa-
2 tion;

3 “(6) coordinating with the Office of Federal
4 Procurement Policy to eliminate paperwork burdens
5 associated with procurement and acquisition;”;

6 (3) by striking out the period at the end of
7 paragraph (7) and inserting in lieu thereof a semi-
8 colon; and

9 (4) by adding at the end thereof the following
10 new paragraphs:

11 “(8) minimizing the Federal paperwork burden
12 imposed through Federal collection of information,
13 with particular emphasis on those individuals or en-
14 tities most adversely affected, including—

15 “(A) businesses, especially small businesses
16 and those engaged in international competition;

17 “(B) State and local governments; and

18 “(C) educational institutions; and

19 “(9) initiating and conducting, with selected
20 agencies and non-Federal entities on a voluntary
21 basis, pilot projects to test or demonstrate the fea-
22 sibility and benefit of changes or innovations in Fed-
23 eral policies, rules, regulations, and agency proce-
24 dures to improve information management practices
25 and related management activities (including author-

1 ity for the Director to waive the application of des-
2 ignated agency regulations or administrative direc-
3 tives after giving timely notice to the public and
4 Congress regarding the need for such waiver).”.

5 **SEC. 5302. ENHANCING AGENCY RESPONSIBILITY TO OB-**
6 **TAIN PUBLIC REVIEW OF PROPOSED PAPER-**
7 **WORK BURDENS.**

8 Section 3507(a) of title 44, United States Code, is
9 amended—

10 (1) in paragraph (2)(B) by inserting “a sum-
11 mary of the request,” after “title for the information
12 collection request,”;

13 (2) by striking out “and” at the end of para-
14 graph (2); and

15 (3) by redesignating paragraph (3) as para-
16 graph (4) and inserting after paragraph (2) the
17 following:

18 “(3) the agency provides at least 30 days for
19 public comment to the agency and the Office of
20 Management and Budget after publication of the no-
21 tice in the Federal Register, except as provided
22 under section 3507 (g) and (k), and the agency head
23 and the Director consider comments received regard-
24 ing the proposed collection of information; and”.

1 **SEC. 5303. EXPEDITING REVIEW AT THE OFFICE OF MAN-**
2 **AGEMENT AND BUDGET.**

3 Section 3507(b) of title 44, United States Code, is
4 amended—

5 (1) by striking out the first sentence and insert-
6 ing in lieu thereof “The Director shall within 30
7 days after publication of the notice under subsection
8 (a)(3) that is applicable to a proposed information
9 collection request not contained in a proposed rule,
10 notify the agency involved of the decision to approve
11 or disapprove the proposed information collection re-
12 quest and shall make such decisions publicly avail-
13 able. Any decision to disapprove an information col-
14 lection request shall include an explanation of the
15 reasons for such decision.”;

16 (2) by striking out “sixty” each place it appears
17 and inserting “30” in each such place;

18 (3) by striking out “thirty” and inserting in
19 lieu thereof “30”; and

20 (4) by striking out “one” and inserting in lieu
21 thereof “1”.

1 **SEC. 5304. IMPROVING PUBLIC AND AGENCY SCRUTINY OF**
2 **PAPERWORK BURDENS PROPOSED FOR RE-**
3 **NEWAL.**

4 (a) APPROVAL OF INFORMATION COLLECTION RE-
5 QUEST.—Section 3507(d) of title 44, United States Code,
6 is amended—

7 (1) by inserting “(1)” after “(d)”; and

8 (2) by adding at the end thereof the following:

9 “(2)(A) If the head of the agency, or the senior offi-
10 cial designated under section 3506(b)(1), decides to seek
11 extension of the Director’s approval granted for a cur-
12 rently approved information collection request, the agency
13 shall, through the notice prescribed in subsection
14 (a)(2)(B) and such other practicable steps as may be rea-
15 sonable, seek comment from the agencies, and the public
16 on the continued need for, and burden imposed by, the
17 collection of information.

18 “(B) The agency, after having made a reasonable ef-
19 fort to seek comment under subparagraph (A), but no
20 later than 60 days before the expiration date of the control
21 number assigned by the Director for the currently ap-
22 proved information collection request, shall—

23 “(i) evaluate the public comments received;

24 “(ii) conduct the review established under sec-
25 tion 3506(e); and

1 “(iii) provide to the Director the certification
2 required by section 3506(f), including the text of the
3 certification and any additional relevant information
4 regarding how the information collection request
5 comports with the principles and requirements of
6 this chapter.

7 “(C) Upon receipt of such certification, and prior to
8 the expiration of the control number for that information
9 collection request, the Director shall—

10 “(i) ensure that the agency has taken the ac-
11 tions specified under section 3506(f)(2);

12 “(ii) evaluate the public comments received by
13 the agency or by the Director;

14 “(iii) determine whether the agency certification
15 complies with the standards under section
16 3506(f)(1); and

17 “(iv) approve or disapprove the information col-
18 lection request under this chapter.

19 “(3) If a certification is not provided to the Director
20 prior to the beginning of the 60-day period before the expi-
21 ration of the control number as provided under paragraph
22 (2)(B), the agency shall submit the information collection
23 request for review and approval or disapproval under this
24 chapter.

1 “(4) An agency may not make a substantive or mate-
2 rial modification to an information collection request after
3 it has been approved by the Director, unless the modifica-
4 tion has been submitted to the Director for review and
5 approval or disapproval under this chapter.”.

6 (b) APPROVAL OF INFORMATION COLLECTION RE-
7 QUIREMENTS.—Section 3507 of title 44, United States
8 Code, is further amended by adding at the end thereof
9 the following new subsections:

10 “(i)(1) As soon as practicable, but no later than pub-
11 lication of a notice of proposed rulemaking in the Federal
12 Register, each agency shall forward to the Director a copy
13 of any proposed rule which contains a collection of infor-
14 mation requirement and upon request, information nec-
15 essary to make the determination required under this
16 chapter.

17 “(2) Within 60 days after the notice of proposed rule-
18 making is published in the Federal Register, the Director
19 may file public comments under the standards set forth
20 in section 3508 on the collection of information require-
21 ment contained in the proposed rule.

22 “(3) When a final rule is published in the Federal
23 Register, the agency shall explain how any collection of
24 information requirement contained in the final rule re-
25 sponds to the comments, if any, filed by the Director or

1 the public, or explain the reasons such comments were re-
2 jected.

3 “(4) The Director has no authority to disapprove any
4 collection of information requirement specifically con-
5 tained in an agency rule, if the Director has received no-
6 tice and failed to comment on the rule within 60 days after
7 the notice of proposed rulemaking.

8 “(5) No provision in this section shall be construed
9 to prevent the Director, at the discretion of such officer,
10 from—

11 “(A) disapproving any information collection re-
12 quest which was not specifically required by an
13 agency rule;

14 “(B) disapproving any collection of information
15 requirement contained in an agency rule, if the
16 agency failed to comply with the requirements of
17 paragraph (1) of this subsection;

18 “(C) disapproving any collection of information
19 requirement contained in a final agency rule, if the
20 Director finds within 60 days after the publication
21 of the final rule that such a collection of information
22 requirement cannot be approved under the standards
23 set forth in section 3508, after reviewing the agen-
24 cy’s response to the comments of the Director filed
25 under paragraph (2) of this subsection; or

1 “(D) disapproving any collection of information
2 requirement, if the Director determines that the
3 agency has substantially modified, in the final rule,
4 the collection of information requirement contained
5 in the proposed rule and the agency has not given
6 the Director the information required under para-
7 graph (1) with respect to the modified collection of
8 information requirement, at least 60 days before the
9 issuance of the final rule.

10 “(6) The Director shall make publicly available any
11 decision to disapprove a collection of information require-
12 ment contained in an agency rule, together with the rea-
13 sons for such decision.

14 “(7) The authority of the Director under this sub-
15 section is subject to subsection (c).

16 “(8) This subsection shall apply only when an agency
17 publishes a notice of proposed rulemaking and requests
18 public comments.

19 “(9) The decision of the Director to approve or not
20 to act upon a collection of information requirement con-
21 tained in an agency rule shall not be subject to judicial
22 review.

23 “(j)(1) If the head of the agency, or the senior official
24 designated under section 3506(b)(1), decides to seek ex-
25 tension of the Director’s approval granted for a currently

1 approved collection of information requirement, the agency
2 shall, through the notice prescribed in subsection
3 (a)(2)(B) and such other practicable steps as may be rea-
4 sonable, seek comment from the agencies, and the public
5 on the continued need for, and burden imposed by, the
6 collection of information requirement.

7 “(2) The agency, after having made a reasonable ef-
8 fort to seek comment under paragraph (1), but no later
9 than 60 days before the expiration date of the control
10 number assigned by the Director for the currently ap-
11 proved collection of information requirement, shall—

12 “(A) evaluate the public comments received;

13 “(B) conduct the review established under sec-
14 tion 3506(e); and

15 “(C) provide to the Director the certification re-
16 quired by section 3506(f), including the text of the
17 certification and any additional relevant information
18 regarding how the collection of information require-
19 ment comports with the principles and requirements
20 of this chapter.

21 “(3) Upon receipt of such certification, and prior to
22 the expiration date of the control number for that collec-
23 tion of information requirement, the Director shall—

24 “(A) ensure that the agency has taken the ac-
25 tions specified in section 3506(f)(2);

1 “(B) evaluate the public comments received by
2 the agency or by the Director;

3 “(C) determine whether the agency certification
4 complies with the standards under section
5 3506(f)(1); and

6 “(D) approve or disapprove the collection of in-
7 formation requirement under this chapter.

8 “(4) If under the provisions of paragraph (3), the Di-
9 rector disapproves a collection of information requirement,
10 or recommends or instructs the agency to make a sub-
11 stantive or material change to a collection of information
12 requirement, the Director shall—

13 “(A) publish an explanation thereof in the Fed-
14 eral Register; and

15 “(B) instruct the agency to undertake a rule-
16 making within a reasonable time limited to consider-
17 ation of changes to the collection of information re-
18 quirement and thereafter to submit the collection of
19 information requirement for approval or disapproval
20 under this chapter.

21 “(5) Nothing in this subsection affects the review
22 process for a collection of information requirement con-
23 tained in a proposed rule, including a proposed change to
24 an existing collection of information requirement, under

1 subsection (i) with respect to such collection of informa-
2 tion requirement.

3 “(6) The Director may not approve a collection of
4 information requirement for a period in excess of 3
5 years.”.

6 **SEC. 5305. PROTECTION FOR WHISTLEBLOWERS OF UNAU-**
7 **THORIZED PAPERWORK BURDEN.**

8 Section 3507(h) of title 44, United States Code, is
9 amended in the second sentence by inserting before the
10 period “, and any communication relating to a collection
11 of information, the disclosure of which could lead to retal-
12 iation or discrimination against the communicator”.

13 **SEC. 5306. ENHANCING PUBLIC PARTICIPATION.**

14 Section 3517 of title 44, United States Code, is
15 amended—

16 (1) by inserting “(a)” before “In development”;

17 and

18 (2) by adding at the end thereof:

19 “(b)(1) Under procedures established by the Direc-
20 tor, a person may request the Director to review any col-
21 lection of information conducted by or for an agency to
22 determine, if—

23 “(A) the collection of information is subject to
24 the requirements of this chapter;

1 “(B) the collection of information has been ap-
2 proved in conformity with this chapter; and

3 “(C) the person that is to respond to the collec-
4 tion of information is entitled to the public protec-
5 tions afforded by this chapter.

6 “(2) Any review requested under paragraph (1), un-
7 less the request is determined frivolous or does not on its
8 face state a valid basis for such review, shall—

9 “(A) be completed by the Director within 60
10 days after receiving the request, unless such period
11 is extended by the Director to a specified date and
12 the person making the request is given notice of
13 such extension;

14 “(B)(i) be coordinated with the agency respon-
15 sible for the collection of information to which the
16 request relates; and

17 “(ii) be coordinated with the Administrator for
18 Federal Procurement Policy, if the request relates to
19 a collection of information applicable to an actual or
20 prospective Federal contractor or subcontractor at
21 any tier; and

22 “(C) result in a written determination by the
23 Director, that shall be—

24 “(i) furnished to the person making the re-
25 quest; and

1 “(ii) made available to the public upon re-
2 quest (and listed and summarized in the annual
3 report required under section 3514), unless con-
4 fidentiality is requested by the person making
5 the request.”.

6 **SEC. 5307. EXPEDITING REVIEW OF AN AGENCY INFORMA-**
7 **TION COLLECTION REQUEST WITH A RE-**
8 **DUCED BURDEN.**

9 Section 3507 of title 44, United States Code (as
10 amended by section 5304(b) of this title) is further
11 amended by adding at the end thereof the following new
12 subsection:

13 “(k) Upon request by the head of an agency, the Di-
14 rector shall approve a proposed change to an existing in-
15 formation collection request (unless such proposed change
16 is subject to subsection (i)) within 30 days after the Direc-
17 tor receives the proposed change. The information collec-
18 tion request shall thereafter remain in effect at least for
19 the remainder of the period for which it was previously
20 approved by the Director, if—

21 “(1) the information collection request has a
22 current control number; and

23 “(2) the Director determines that the revi-
24 sion—

1 “(A) reduces the burden resulting from the
2 information collection request; and

3 “(B) does not substantially change the in-
4 formation collection request.”.

5 **Subtitle D—Enhancing Agency Re-**
6 **sponsibility for Sharing and Dis-**
7 **seminating Public Information**

8 **SEC. 5401. PRESCRIBING GOVERNMENTWIDE STANDARDS**
9 **FOR SHARING AND DISSEMINATING PUBLIC**
10 **INFORMATION.**

11 Section 3504(h) of title 44, United States Code, is
12 amended to read as follows:

13 “(h) The functions of the Director related to agency
14 dissemination and sharing of public information shall in-
15 clude—

16 “(1) developing policies and practices for agen-
17 cy dissemination and sharing of public information
18 consistent with the agency responsibilities under sec-
19 tion 3506(g); and

20 “(2) developing policy guidelines that instruct
21 Federal agencies on ways to fulfill agency respon-
22 sibilities to disseminate and share information that,
23 to the extent appropriate and practicable—

1 “(A) make information dissemination prod-
2 ucts available on timely, equitable and cost
3 effective terms;

4 “(B) encourage a diversity of public and
5 private information dissemination products;

6 “(C) avoid establishing, or permitting oth-
7 ers to establish, exclusive, restricted, or other
8 distribution arrangements that interfere with
9 the availability of information dissemination
10 products on a timely and equitable basis; and

11 “(D) avoid establishing restrictions or reg-
12 ulations, including the charging of fees or royalti-
13 ties, on the reuse, resale, or redissemination of
14 Federal information dissemination products by
15 the public; and

16 “(E) set user charges for information dis-
17 semination products at a level sufficient to re-
18 cover the cost of dissemination, except—

19 “(i) where otherwise required by stat-
20 ute;

21 “(ii) where the information is col-
22 lected, processed, and disseminated for the
23 benefit of a specific identifiable group be-
24 yond the benefit to the general public; or

1 “(iii) where user charges are estab-
2 lished at less than cost of dissemination
3 because of a determination that higher
4 charges would interfere with the proper
5 performance of the agency’s functions.”.

6 **SEC. 5402. AGENCY RESPONSIBILITIES FOR SHARING AND**
7 **DISSEMINATING PUBLIC INFORMATION.**

8 Section 3506 of title 44, United States Code, is
9 amended by adding at the end thereof the following new
10 subsection:

11 “(g) The head of each agency shall, to the extent ap-
12 propriate and practicable, and in conformance with the
13 policy guidelines established under section 3504(h), estab-
14 lish and maintain a management system for the dissemi-
15 nation and sharing of information that—

16 “(1) ensures that the public has timely, equi-
17 table and cost-effective access to the agency’s infor-
18 mation dissemination products;

19 “(2) disseminates and shares information in a
20 manner that achieves the best balance between maxi-
21 mizing the usefulness of the information and mini-
22 mizing the cost to the Government and the public;

23 “(3) takes advantage of all appropriate chan-
24 nels, Federal and non-Federal, including State and
25 local governments, libraries and private sector enti-

1 ties, in discharging agency responsibilities for the
2 dissemination and sharing of information;

3 “(4) considers whether an information dissemi-
4 nation product available from other Federal or non-
5 Federal sources is equivalent to an agency informa-
6 tion dissemination product and reasonably achieves
7 the objectives of the agency;

8 “(5) establishes and maintains inventories of all
9 agency information dissemination products in con-
10 formance with the requirements of section 3511;

11 “(6) establishes and maintains communications
12 with members of the public and with State and local
13 governments so that the agency shares information
14 and otherwise creates information dissemination
15 products that meet their respective needs; and

16 “(7) provides adequate notice when initiating,
17 substantially modifying, or terminating significant
18 information dissemination products.”.

19 **SEC. 5403. AGENCY INFORMATION INVENTORY/LOCATOR**
20 **SYSTEM.**

21 (a) IN GENERAL.—Section 3511 of title 44, United
22 States Code, is amended to read as follows:

1 **“§ 3511. Inventory systems of information dissemina-**
2 **tion products**

3 “(a) Each agency having significant information dis-
4 semination products shall establish and maintain a com-
5 prehensive inventory of such products, which shall include,
6 at a minimum, the title of each such product, an abstract
7 of the contents of each product, the media in which each
8 product is available, and the cost, if any, of each product,
9 subject to any requirements promulgated pursuant to sub-
10 section (c).

11 “(b) The inventory created pursuant to subsection (a)
12 shall be made available for public access by electronic
13 means, and in such other media as are appropriate and
14 practicable, at no charge to the public.

15 “(c) The Director, in consultation with the Secretary
16 of Commerce, the Archivist of the United States, the Pub-
17 lic Printer, and the Librarian of Congress, may establish
18 a mechanism for developing technical standards and other
19 minimum requirements for the agency inventory systems
20 created under subsection (a).”.

21 (b) TECHNICAL AND CONFORMING AMENDMENT.—
22 The table of sections for chapter 35 of title 44, United
23 States Code, is amended by amending the item relating
24 to section 3511 to read as follows:

“3511. Inventory systems of information dissemination products.”.

1 **Subtitle E—Additional Government**
2 **Information Management Re-**
3 **sponsibility**

4 **SEC. 5501. STRENGTHENING THE STATISTICAL POLICY AND**
5 **COORDINATION FUNCTIONS OF THE DIREC-**
6 **TOR.**

7 Section 3504(d) of title 44, United States Code, is
8 amended to read as follows:

9 “(d)(1) The statistical policy and coordination func-
10 tions of the Director shall include—

11 “(A) coordinating and providing leadership for
12 development of the Federal statistical system;

13 “(B) developing and periodically reviewing and,
14 as necessary, revising long-range plans for the im-
15 proved coordination and performance of the statis-
16 tical activities and programs of the Federal Govern-
17 ment;

18 “(C) ensuring the integrity, objectivity, impar-
19 tiality and confidentiality of the Federal statistical
20 system;

21 “(D) reviewing budget proposals of agencies to
22 ensure that the proposals are consistent with such
23 long-range plans and developing a summary and
24 analysis of the budget submitted by the President to

1 the Congress for each fiscal year of the allocation for
2 all statistical activities;

3 “(E) coordinating, through the review of budget
4 proposals and as otherwise provided under this chap-
5 ter, the functions of the Federal Government with
6 respect to gathering, interpreting and sharing statis-
7 tics and statistical information;

8 “(F) developing and implementing government-
9 wide policies, principles, standards and guidelines
10 concerning statistical collection procedures and
11 methods, statistical data classification, statistical in-
12 formation presentation and sharing, and such statis-
13 tical data sources as may be required for the admin-
14 istration of Federal programs;

15 “(G) evaluating statistical program perform-
16 ance and agency compliance with governmentwide
17 policies, principles, standards and guidelines;

18 “(H) promoting the timely release by agencies
19 of statistical data to the public;

20 “(I) coordinating the participation of the
21 United States in international statistical activities;

22 “(J) preparing an annual report to submit to
23 the Congress on the statistical policy and coordina-
24 tion function;

1 (1) by inserting “development and” after
2 “overseeing the”; and

3 (2) by inserting “(including standards that im-
4 prove the ability of agencies to use technology to
5 reduce burden)” after “establishment of standards”.

6 **SEC. 5503. AGENCY IMPLEMENTATION.**

7 Section 3514(a) of title 44, United States Code, is
8 amended—

9 (1) in paragraph (9)(C) by striking out “and”
10 at the end thereof;

11 (2) in paragraph (10)(C) by striking out the pe-
12 riod and inserting in lieu thereof a semicolon; and

13 (3) by adding at the end thereof the following
14 new paragraphs:

15 “(11) a listing of any increase in the burden
16 imposed on the public during the year covered by the
17 report resulting from a collection of information con-
18 ducted or sponsored by or for an agency, which was
19 imposed by such agency—

20 “(A) as specifically mandated by the provi-
21 sion of a statute; or

22 “(B) as necessary to implement a statutory
23 requirement, which requirement shall be identi-
24 fied with particularity;

1 ments of sections 110 and 111 of the Federal Prop-
2 erty and Administrative Services Act of 1949 (40
3 U.S.C. 757 and 759) and the purposes of this
4 chapter;”.

5 **SEC. 5505. TECHNICAL AND CONFORMING AMENDMENTS.**

6 (a) DEFINITIONS.—Section 3502(10) of title 44,
7 United States Code, is amended by striking out “the Fed-
8 eral Housing Finance Board” and inserting in lieu thereof
9 “Federal Housing Finance Board”.

10 (b) REVIEW PERIODS.—Section 3507(g)(1) of title
11 44, United States Code, is amended to read as follows:
12 “(1) is needed prior to the expiration of the time periods
13 for public notice and review by the Director pursuant to
14 the requirements of this chapter;”.

15 (c) DIRECTOR REVIEW.—Section 3513(a) of title 44,
16 United States Code, is amended in the first sentence by
17 inserting “resources” after “information”.

18 (d) RESPONSIVENESS.—Section 3514(a) of title 44,
19 United States Code, is amended—

20 (1) in paragraph (9)(A) by inserting “and” at
21 the end thereof;

22 (2) in paragraph (9)(B) by striking out the
23 semicolon and inserting a period; and

24 (3) by striking out paragraph (9)(C).

1 **Subtitle F—Effective Dates**

2 **SEC. 5601. EFFECTIVE DATES.**

3 (a) IN GENERAL.—Except as provided in subsection
4 (b), the provisions of this title shall become effective 120
5 days after the date of the enactment of this Act.

6 (b) IN PARTICULAR.—section 5101 and this section
7 shall become effective upon the date of the enactment of
8 this Act.

9 **TITLE VI—STRENGTHENING**
10 **REGULATORY FLEXIBILITY**

11 **SEC. 6001. JUDICIAL REVIEW.**

12 (a) IN GENERAL.—Section 611 of title 5, United
13 States Code, is repealed.

14 (b) CONFORMING AMENDMENT.—The table of sec-
15 tions at the beginning of chapter 6 of title 5, United
16 States Code, is amended by striking the item relating to
17 section 611.

18 **SEC. 6002. CONSIDERATION OF DIRECT AND INDIRECT EF-**
19 **FECTS OF RULES.**

20 (a) IN GENERAL.—Title 5, United States Code, is
21 amended by inserting after section 610 the following new
22 section:

1 **“§ 611. Consideration of direct and indirect effects of**
2 **rules**

3 “In determining under this chapter whether or not
4 a rule is likely to have a significant impact on a substan-
5 tial number of small entities, an agency shall consider both
6 the direct and indirect effects of the rule.”.

7 (b) CONFORMING AMENDMENT.—The table of sec-
8 tions at the beginning of chapter 6 of title 5, United
9 States Code, is amended by inserting after the item relat-
10 ing to section 610 the following:

“611. Consideration of direct and indirect effects of rules.”.

11 **SEC. 6003. RULES OPPOSED BY SBA CHIEF COUNSEL FOR**
12 **ADVOCACY.**

13 (a) IN GENERAL.—Section 612 of title 5, United
14 States Code, is amended by adding at the end the follow-
15 ing new subsection:

16 “(d) STATEMENT OF OPPOSITION.—

17 “(1) TRANSMITTAL OF PROPOSED RULES AND
18 INITIAL REGULATORY FLEXIBILITY ANALYSIS TO
19 SBA CHIEF COUNSEL FOR ADVOCACY.—On or before
20 the 30th day preceding the date of publication by an
21 agency of general notice of proposed rulemaking for
22 a rule, the agency shall transmit to the Chief Coun-
23 sel for Advocacy of the Small Business Administra-
24 tion—

25 “(A) a copy of the proposed rule; and

1 “(B)(i) a copy of the initial regulatory
2 flexibility analysis for the rule if required under
3 section 603; or

4 “(ii) a determination by the agency that an
5 initial regulatory flexibility analysis is not re-
6 quired for the proposed rule under section 603
7 and an explanation for the determination.

8 “(2) STATEMENT OF OPPOSITION.—On or be-
9 fore the 15th day following receipt of a proposed
10 rule and initial regulatory flexibility analysis from an
11 agency under paragraph (1), the Chief Counsel for
12 Advocacy may transmit to the agency a written
13 statement of opposition of the proposed rule.

14 “(3) RESPONSE.—If the Chief Counsel for Ad-
15 vocacy transmits to an agency a statement of opposi-
16 tion to a proposed rule in accordance with para-
17 graph (2), the agency shall publish the statement,
18 together with the response of the agency to the
19 statement, in the Federal Register at the time of
20 publication of general notice of proposed rulemaking
21 for the rule.”.

22 (b) CONFORMING AMENDMENT.—Section 603(a) of
23 title 5, United States Code, is amended by inserting “in
24 accordance with section 612(d)” before the period at the
25 end of the last sentence.

1 **SEC. 6004. SENSE OF CONGRESS REGARDING SBA CHIEF**
2 **COUNSEL FOR ADVOCACY.**

3 It is the sense of Congress that the Chief Counsel
4 for Advocacy of the Small Business Administration should
5 be permitted to appear as amicus curiae in any action or
6 case brought in a court of the United States for the pur-
7 pose of reviewing a rule.

8 **TITLE VII—REGULATORY**
9 **IMPACT ANALYSES**

10 **SEC. 7001. SHORT TITLE.**

11 This title may be cited as the “Administrative Proce-
12 dure Reform Act of 1995”.

13 **SEC. 7002. RULE MAKING NOTICES FOR MAJOR RULES.**

14 Section 553 of title 5, United States Code, is amend-
15 ed by adding at the end the following:

16 “(f)(1)(A) The head of an agency shall publish in the
17 Federal Register, at least 90 days before the date of publi-
18 cation of general notice under subsection (b) for a pro-
19 posed major rule, a notice of intent to engage in rule mak-
20 ing.

21 “(B) A notice under subparagraph (A) for a proposed
22 major rule shall include, to the extent possible, the infor-
23 mation required to be included in a Regulatory Impact
24 Analysis for the rule under section 7004(c) (1), (2), and
25 (8) of the Administrative Procedure Reform Act of 1995.

1 “(2) The head of an agency shall include in a general
2 notice under subsection (b) for a major rule proposed by
3 the agency—

4 “(A) a final Regulatory Impact Analysis for the
5 rule prepared in accordance with section 7004 of the
6 Administrative Procedure Reform Act of 1995; and

7 “(B) clear delineation of all changes in the in-
8 formation included in the final Regulatory Impact
9 Analysis under section 7004(c)(1) and (2) of the Ad-
10 ministrative Procedure Reform Act of 1995 from
11 any such information that was included in the notice
12 for the rule under paragraph (1)(B) of this sub-
13 section.

14 “(3) In this subsection, the term ‘major rule’ has the
15 meaning given that term in section 7004(b) of the Admin-
16 istrative Procedure Reform Act of 1995.’”.

17 **SEC. 7003. HEARING REQUIREMENT FOR PROPOSED**
18 **RULES; EXTENSION OF COMMENT PERIOD.**

19 (a) HEARING REQUIREMENT.—Section 553 of title 5,
20 United States Code, is further amended—

21 (1) in subsection (b), in the matter following
22 paragraph (3), by inserting “(except subsection
23 (g))” after “this subsection”; and

24 (2) by adding after subsection (f) (as added by
25 section 7002 of this title) the following:

1 “(g) If more than 100 interested persons acting indi-
2 vidually submit comments to an agency regarding any rule
3 proposed by the agency, the agency shall hold a public
4 hearing on the proposed rule.”.

5 (b) EXTENSION OF COMMENT PERIOD.—Section 553
6 of title 5, United States Code, is further amended by add-
7 ing after subsection (g) (as added by subsection (a)(2) of
8 this section) the following:

9 “(h) If during the 30-day period beginning on the
10 date of publication of notice under subsection (f)(1)(A) for
11 a proposed major rule, or if during the 30-day period be-
12 ginning on the date of publication or service of notice re-
13 quired by subsection (b) for a proposed rule, more than
14 100 persons individually contact the agency to request an
15 extension of the period for making submissions under sub-
16 section (c) pursuant to the notice, the agency—

17 “(1) shall provide an additional 30-day period
18 for making those submissions; and

19 “(2) may not adopt the rule until after that ad-
20 ditional period.”.

21 (c) RESPONSE TO COMMENTS.—Section 553(c) of
22 title 5, United States Code, is amended—

23 (1) by inserting “(1)” after “(c)”; and

24 (2) by adding at the end the following:

1 “(2) The head of an agency shall publish in the Fed-
2 eral Register with each rule published under section
3 552(a)(1)(D) of this title, responses to the substance of
4 the comments received by the agency regarding the rule.”.

5 **SEC. 7004. REGULATORY IMPACT ANALYSIS.**

6 (a) APPLICATION OF EXECUTIVE ORDER AS STATU-
7 TORY REQUIREMENT.—Except as otherwise provided in
8 this section, Executive Order 12291 (relating to Federal
9 regulation requirements and regulatory impact analysis),
10 as in effect on September 29, 1993, shall apply to each
11 agency in accordance with the provisions of the Order.

12 (b) DEFINITION OF MAJOR RULE IN ORDER.—Not-
13 withstanding section 1(b) of the Order, for purposes of
14 subsection (a) of this section, the term “major rule”
15 means any proposed rulemaking—

16 (1) which affects more than 100 persons; or

17 (2) compliance with which will require the ex-
18 penditure of more than \$1,000,000 by any single
19 person which is not a Federal agency.

20 (c) CONTENTS OF REGULATORY IMPACT ANALY-
21 SES.—In lieu of the information specified in section 3(d)
22 of the Order, each preliminary and final Regulatory Im-
23 pact Analysis required under section 3 of the Order for
24 a rule shall contain the following:

1 (1) An explanation of the necessity, appro-
2 priateness and reasonableness of the rule.

3 (2) A description of the current condition that
4 the rule will address and how that condition will be
5 affected by the rule.

6 (3) A statement that the rule does not conflict
7 with nor duplicate any other rule, or an explanation
8 of why the conflict or duplication exists.

9 (4) A statement of whether the rule is in accord
10 with or in conflict with any legal precedent.

11 (5) A statement of the factual, scientific, or
12 technical basis for the agency's determination that
13 the rule will accomplish its intended purpose.

14 (6) A statement that describes and, to the ex-
15 tent practicable, quantifies the risks to human
16 health or the environment to be addressed by the
17 rule.

18 (7) A demonstration that the rule provides the
19 least costly or least intrusive approach for meeting
20 its intended purpose.

21 (8) A description of any alternative approaches
22 considered by the agency or suggested by interested
23 persons and the reasons for their rejection.

24 (9) An estimate of the nature and number of
25 persons to be regulated or affected by the rule.

1 (10) An estimate of the economic costs of the
2 rule, including those incurred by persons in comply-
3 ing with the rule.

4 (11) An evaluation of the costs versus the bene-
5 fits derived from the rule, including evaluation of
6 how those benefits outweigh the cost.

7 (12) Whether the rule will require onsite inspec-
8 tions.

9 (13) An estimate of the paperwork burden on
10 persons regulated or affected by the rule, such as
11 the number of forms, impact statements, surveys,
12 and other documents required to be completed by
13 the person under the rule.

14 (14) Whether persons will be required by the
15 rule to maintain any records which will be subject to
16 inspection.

17 (15) Whether persons will be required by the
18 rule to obtain licenses, permits, or other certifi-
19 cations, and the fees and fines associated therewith.

20 (16) Whether persons will be required by the
21 rule to appear before the agency.

22 (17) Whether persons will be required by the
23 rule to disclose information on materials or proc-
24 esses, including trade secrets.

1 (18) Whether persons will be required by the
2 rule to report any particular type of incidents.

3 (19) Whether persons will be required by the
4 rule to adhere to design or performance standards.

5 (20) Whether persons may need to retain or
6 utilize any lawyer, accountant, engineer, or other
7 professional consultant in order to comply with the
8 regulations.

9 (21) An estimate of the costs to the agency for
10 implementation and enforcement of the regulations.

11 (22) Whether the agency can be reasonably ex-
12 pected to implement the rule with the current level
13 of appropriations.

14 (23) A statement that any person may submit
15 comments on the Regulatory Impact Analysis to the
16 Administrator of the Office of Information and Reg-
17 ulatory Affairs.

18 The requirements of this section shall be consistent
19 with, and not duplicative of, the requirements of section
20 3201.

21 (d) DEFINITIONS.—In this section—

22 (1) the term “Order” means Executive Order
23 12291, as in effect on September 29, 1993; and

24 (2) each of the terms “agency”, “regulation”,
25 and “rule” has the meaning given that term in sec-

1 tion 1 of the Order, except that the term “agency”
2 includes an independent agency.

3 **SEC. 7005. ADDITIONAL RESPONSIBILITIES OF DIRECTOR**
4 **OF THE OFFICE OF MANAGEMENT AND**
5 **BUDGET.**

6 An agency may not adopt a major rule unless the
7 final Regulatory Impact Analysis for the rule is approved
8 in writing by the Director of the Office of Management
9 and Budget or by an individual designated by the Director
10 for that purpose.

11 **SEC. 7006. STANDARD OF CLARITY.**

12 To the extent practicable, the head of an agency may
13 not publish in the Federal Register any proposed major
14 rule, summary of a proposed major rule, or Regulatory
15 Impact Analysis unless the Director of the Office of Man-
16 agement and Budget certifies that the proposed major
17 rule, summary, or Analysis—

18 (1) is written in a reasonably simple and under-
19 standable manner and is easily readable;

20 (2) is written to provide adequate notice of the
21 content of the rule, summary, or Analysis to affected
22 persons and interested persons that have some sub-
23 ject matter expertise;

24 (3) conforms to commonly accepted principles
25 of grammar;

1 (4) contains only sentences that are as short as
2 practical and organized in a sensible manner; and

3 (5) to the extent practicable, does not contain
4 any double negatives, confusing cross references,
5 convoluted phrasing, unreasonably complex lan-
6 guage, or term of art or word with multiple mean-
7 ings that may be misinterpreted and is not defined
8 in the rule, summary, or analysis, respectively.

9 **SEC. 7007. REPORT BY OIRA.**

10 The Director of the Office of Management and Budg-
11 et shall submit a report to the Congress no later than 24
12 months after the date of the enactment of this Act con-
13 taining an analysis of rule making procedures of Federal
14 agencies and an analysis of the impact of those rule mak-
15 ing procedures on the regulated public and regulatory
16 process.

17 **SEC. 7008. DEFINITIONS.**

18 For purposes of this title—

19 (1) except as provided in section 7004(d)(2),
20 each of the terms “agency”, “rule”, and “rule mak-
21 ing” has the meaning given that term in section 551
22 of title 5, United States Code; and

23 (2) the term “major rule” has the meaning
24 given that term in section 7004(b).

1 **TITLE** **VIII—PROTECTION**
2 **AGAINST FEDERAL REGU-**
3 **LATORY ABUSE**
4 **Subtitle A—Citizens’ Regulatory**
5 **Bill of Rights**

6 **SEC. 8101. CITIZENS’ REGULATORY BILL OF RIGHTS.**

7 (a) IN GENERAL.—Except as provided in subsection
8 (c), each person that is the target of a Federal investiga-
9 tive or enforcement action shall, upon the initiation of an
10 inspection, investigation, or other official proceeding di-
11 rected against that person, have the right—

12 (1) to remain silent;

13 (2) to be advised as to whether the person has
14 a right to a warrant;

15 (3) to be warned that statements can be used
16 against them;

17 (4) to have an attorney or accountant present;

18 (5) to be informed as to the scope and purpose
19 of the agency action;

20 (6) to be present at the inspection, investiga-
21 tion, or proceeding;

22 (7) to be reimbursed for unreasonable damages;

23 (8) to be free of unreasonable seizures of prop-
24 erty or assets; and

1 (9) to receive attorneys fees and other expenses
2 from the Government when the Government com-
3 mences a frivolous civil action against such person,
4 except that nothing in this paragraph shall be con-
5 strued to affect the Equal Access to Justice Act.

6 (b) AGENCY RULES.—Each agency or other authority
7 of the Federal Government with respect to which this sec-
8 tion applies shall make appropriate rules within 90 days
9 after the date of the enactment of this Act to implement
10 this section in the context of that agency’s functions.

11 (c) LIMITATION ON APPLICATION OF REQUIRE-
12 MENTS.—A requirement of this section shall not apply if
13 compliance with the requirement would—

14 (1) substantially delay responding to an immi-
15 nent danger to person or property; or

16 (2) substantially or unreasonably impede a
17 criminal investigation.

18 **Subtitle B—Private Sector** 19 **Whistleblowers’ Protection**

20 **SEC. 8201. SHORT TITLE.**

21 This subtitle may be cited as the “Private Sector
22 Whistleblowers’ Protection Act of 1995”.

23 **SEC. 8202. PURPOSE.**

24 The Federal regulatory system should be imple-
25 mented consistent with the principle that any person sub-

1 ject to Government regulation should be protected against
2 reprisal for disclosing information that the person believes
3 is indicative of—

4 (1) violation or inconsistent application of any
5 law, rule, regulation, policy, or internal standard;

6 (2) arbitrary action or other abuse of authority;

7 (3) mismanagement;

8 (4) waste or misallocation of resources;

9 (5) inconsistent, discriminatory or disproportion-
10 ate enforcement proceedings;

11 (6) endangerment of public health or safety;

12 (7) personal favoritism; and

13 (8) coercion for partisan political purposes;

14 by any agency or its employees.

15 **SEC. 8203. COVERAGE.**

16 This subtitle shall apply to:

17 (1) Any agency of the Federal Government as
18 defined in section 551 of title 5, United States Code.

19 (2) Any agency of a State government that ex-
20 ercises authority under Federal law, or that exer-
21 cises authority under State law establishing a pro-
22 gram approved by a Federal agency as a substitute
23 for or supplement to a program established by Fed-
24 eral law.

1 **SEC. 8204. PROHIBITED REGULATORY PRACTICES.**

2 (a) DEFINED.—For purposes of this subtitle, “pro-
3 hibited regulatory practice” means any action described
4 in subsection (b)(i), (ii), or (iii) of this section.

5 (b) PROHIBITION.—(1) No employee of an Agency
6 who has authority—

7 (A) to take or direct other employees to take,

8 (B) to recommend, or

9 (C) to approve,

10 any regulatory action shall—

11 (i) take or fail to take, or threaten to take or
12 fail to take,

13 (ii) recommend or direct that others take or fail
14 to take, or threaten to so recommend or direct, or

15 (iii) approve the taking or failing to take, or
16 threaten to so approve,

17 such regulatory action because of any disclosure by a per-
18 son subject to the action, or by any other person, of infor-
19 mation that the person believed indicative of—

20 (I) violation or inconsistent application of any
21 law, rule, regulation, policy, or internal standard;

22 (II) arbitrary action or other abuse of author-
23 ity;

24 (III) mismanagement;

25 (IV) waste or misallocation of resources;

1 (V) inconsistent, discriminatory or disproportion-
2 ate enforcement;

3 (VI) endangerment of public health or safety;

4 (VII) personal favoritism; or

5 (VIII) coercion for partisan political purposes;

6 by any agency or its employees.

7 (2) An action shall be deemed to have been taken,
8 not taken, approved, or recommended because of the dis-
9 closure of information within the meaning of paragraph
10 (1) if the disclosure of information was a contributing fac-
11 tor to the decision to take, not to take, to approve, or to
12 recommend.

13 **SEC. 8205. PROHIBITED REGULATORY PRACTICE AS A DE-**
14 **FENSE TO AGENCY ACTION.**

15 (a) IN GENERAL.—In any administrative or judicial
16 action or proceeding, formal or informal, by an agency to
17 create, apply or enforce any obligation, duty or liability
18 under any law, rule or regulation against any person, the
19 person may assert as a defense that the agency or one
20 or more employees of the agency have engaged in a prohib-
21 ited regulatory practice with respect to the person or to
22 a related entity in connection with the action or proceed-
23 ing.

24 (b) COMPLIANCE.—If the existence of a prohibited
25 regulatory practice is established, the person may be re-

1 quired to comply with the obligation, duty or liability to
2 the extent compliance is required of and enforced against
3 other persons similarly situated, but no penalty, fine, dam-
4 ages, costs or other obligation except compliance shall be
5 imposed on the person.

6 **SEC. 8206. ENFORCEMENT.**

7 (a) CIVIL PENALTY.—Any agency, and any employee
8 of an agency, engaging in a prohibited regulatory practice
9 may be assessed a civil penalty of not more than \$25,000
10 for each such practice. In the case of a continuing prohib-
11 ited regulatory practice, each day that the practice contin-
12 ues shall be deemed a separate practice.

13 (b) PROCEDURES.—The President shall, by regula-
14 tion, establish procedures providing for the administrative
15 enforcement of the requirements of subsection (a) of this
16 section.

17 **SEC. 8207. CITIZEN SUITS.**

18 (a) COMMENCEMENT.—Any person injured or threat-
19 ened by a prohibited regulatory practice may commence
20 a civil action on his own behalf against any person or
21 agency alleged to have engaged in or threatened to engage
22 in such practice.

23 (b) JURISDICTION AND VENUE.—Any action under
24 subsection (a) of this section shall be brought in the dis-
25 trict court for any district in which the alleged prohibited

1 regulatory practice occurred or in which the alleged injury
2 occurred. The district court shall have jurisdiction, with-
3 out regard to the amount in controversy or the citizenship
4 of the parties, to—

5 (1) restrain any agency or person who has en-
6 gaged or is engaging in any prohibited regulatory
7 practice;

8 (2) order the cancellation or remission of any
9 penalty, fine, damages, or other monetary assess-
10 ment that resulted from a prohibited regulatory
11 practice;

12 (3) order the rescission of any settlement that
13 resulted from a prohibited regulatory practice;

14 (4) order the issuance of any permit or license
15 that has been denied or delayed as a result of a pro-
16 hibited regulatory practice;

17 (5) order the agency and/or the employee en-
18 gaging in a prohibited regulatory practice to pay to
19 the injured person such damages as may be nec-
20 essary to compensate the person for any harm re-
21 sulting from the practice, including damages for—

22 (A) injury to, deterioration of, or destruc-
23 tion of real or personal property;

1 (B) loss of profits from idle or
2 underutilized resources, and from business for-
3 gone;

4 (C) costs incurred, including costs of com-
5 pliance where appropriate;

6 (D) loss in value of a business;

7 (E) reasonable legal, consulting and expert
8 witness fees; or

9 (F) payments to third parties;

10 (6) order the payment of punitive damages, in
11 an amount not to exceed \$25,000 for each such pro-
12 hibited regulatory practice, provided that, in the case
13 of a continuing prohibited regulatory practice, each
14 day that the practice continues shall be deemed a
15 separate practice.

16 **SEC. 8208. OFFICE OF THE SPECIAL COUNSEL.**

17 (a) REQUEST FOR INVESTIGATION.—Any person who
18 has reason to believe that any employee of any agency has
19 engaged in a prohibited regulatory practice may request
20 the Special Counsel established by section 1211 of title
21 5, United States Code, to investigate.

22 (b) POWERS.—The Special Counsel shall have the
23 same power to investigate prohibited regulatory practices
24 that it has to investigate prohibited personnel practices
25 pursuant to section 1212 of title 5, United States Code.

1 **SEC. 8209. RELATION TO CRIMINAL INVESTIGATIONS.**

2 Nothing in this subtitle shall be construed so as sub-
3 stantially or unreasonably to impede a criminal investiga-
4 tion.

5 **TITLE IX—PRIVATE PROPERTY**
6 **RIGHTS PROTECTIONS AND**
7 **COMPENSATION**

8 **SEC. 9001. STATEMENT OF PURPOSE.**

9 It is the purpose of this title to compensate private
10 property owners with respect to certain actions that are
11 taken by the Federal Government for public purposes and
12 that limit the use of private property by property owners.

13 **SEC. 9002. COMPENSATION FOR FEDERAL AGENCY IN-**
14 **FRINGEMENT OR DEPRIVATION OF RIGHTS**
15 **TO PRIVATE PROPERTY.**

16 (a) ELIGIBILITY.—

17 (1) IN GENERAL.—A private property owner is
18 entitled to receive compensation from the United
19 States in accordance with this section for any agency
20 infringement or deprivation of rights to property
21 that is owned by the private property owner.

22 (2) AGENCY INFRINGEMENT OR DEPRIVATION
23 OF RIGHTS TO PROPERTY DEFINED.—For purposes
24 of paragraph (1), the term “agency infringement or
25 deprivation of rights to property” means a limitation
26 or condition that—

1 (A) is imposed by a final agency action on
2 a use of property that would be lawful but for
3 the agency action, and

4 (B) results in a reduction in the value of
5 the property equal to ten percent or more.

6 (3) CIRCUMSTANCES IN WHICH COMPENSATION
7 NOT REQUIRED.—A private property owner shall not
8 be entitled to receive compensation under this sub-
9 section for any of the following:

10 (A) A limitation on any action that would
11 constitute a violation of applicable State or local
12 law (including an action that would violate a
13 local zoning ordinance or would constitute a
14 nuisance under any applicable State or local
15 law).

16 (B) A limitation on any use of private
17 property, imposed pursuant to a determination
18 by the President that the use poses or would
19 pose a serious and imminent threat to public
20 health and safety or to the health and safety of
21 workers, or other individuals, lawfully on the
22 property.

23 (C) A limitation imposed pursuant to the
24 Federal navigational servitude.

1 (4) LIMITATION ON CUMULATIVE AMOUNT OF
2 COMPENSATION.—No payment may be made pursu-
3 ant to this subsection with respect to property if the
4 sum of such payment and all other payments made
5 pursuant to this subsection with respect to the prop-
6 erty would exceed the fair market value of the prop-
7 erty (as determined at the time of the payment).

8 (5) STATE OR LOCAL LIMITATIONS IMPOSED
9 PURSUANT TO FEDERAL MANDATES.—A limitation
10 or condition shall be considered to be a Federal
11 agency infringement or deprivation of rights to prop-
12 erty for purposes of paragraph (1) if it is a con-
13 sequence of a limitation or condition on the use of
14 the property by the private property owner that is
15 imposed by a State or local government pursuant to
16 an agency action that is intended to, or does, bind
17 the State or local government.

18 (b) REQUEST FOR COMPENSATION.—Within 90 days
19 after receipt of notice of an agency action with respect
20 to which compensation is required under subsection (a),
21 a private property owner may submit to the head of the
22 agency a request in writing for compensation under this
23 section.

24 (c) AGENCY DETERMINATION AND OFFER.—

1 (1) IN GENERAL.—Upon receipt of a request
2 for compensation, submitted in accordance with sub-
3 section (b), with respect to an agency action affect-
4 ing private property as described in subsection (a),
5 the head of the agency that took the action shall de-
6 termine whether the private property owner submit-
7 ting the request has demonstrated entitlement to
8 compensation under subsection (a). If the head of
9 the agency finds that the private property owner has
10 so demonstrated, the head of the agency shall offer
11 to compensate the private property owner for the re-
12 duction in the value of the property, as dem-
13 onstrated by the private property owner.

14 (2) TIMING OF DETERMINATION AND OFFER.—
15 The head of an agency shall make the determination
16 and offer, if any, required by paragraph (1) with re-
17 spect to a request for compensation not later than
18 180 days after receiving the request.

19 (d) PRIVATE PROPERTY OWNERS' RESPONSE.—A
20 private property owner shall have 60 days after the date
21 of receipt of an offer under subsection (c) to accept or
22 to reject the offer.

23 (e) ARBITRATION.—If the head of an agency deter-
24 mines, under subsection (c), that a private property owner
25 is not entitled to compensation under subsection (a), or

1 a private property owner rejects an offer made under sub-
2 section (c), the private property owner may submit the
3 matter for arbitration to an arbitrator appointed by the
4 head of the agency from a list of arbitrators submitted
5 by the American Arbitration Association. The arbitrator
6 shall determine whether the request meets the require-
7 ments of subsection (a) (if such determination is called
8 for by the submission of the property owner) and shall
9 determine the amount of compensation to which the prop-
10 erty owner is entitled under this section, in accordance
11 with subsection (c). The arbitration shall be conducted in
12 accordance with the real estate valuation arbitration rules
13 of that association. For purposes of this section, an arbi-
14 tration is binding on the head of an agency and the private
15 property owner as to whether the property owner is enti-
16 tled to compensation under subsection (a) and as to the
17 amount, if any, of compensation owed to the private prop-
18 erty owner under this section.

19 (f) PAYMENT.—The head of an agency shall pay a
20 private property owner any compensation required under
21 the terms of an offer of the agency head that is accepted
22 by the private property owner in accordance with sub-
23 section (d), or under a decision of an arbiter under sub-
24 section (e), by not later than 60 days after the date of

1 the acceptance or the date of the issuance of the decision,
2 respectively.

3 (g) NATURE OF REMEDY.—

4 (1) PROHIBITION OF LIMITATION ON OTHER
5 CLAIMS.—No provision of this title shall be con-
6 strued to limit the rights of any person to pursue
7 any claim or cause of action under the Constitution
8 or any other law (including a claim or cause of ac-
9 tion concerning personal property).

10 (2) PROHIBITION OF USE AS CONDITION
11 PRECEDENT.—Submission of a request for com-
12 pensation, or receipt of compensation, under this
13 title shall not be a condition precedent for any claim
14 or cause of action under any law.

15 (h) LIMITATION ON DOUBLE RECOVERY.—

16 (1) COURT AWARDS OF DAMAGES.—Notwith-
17 standing subsection (g), a court may credit a pay-
18 ment made pursuant to subsection (a) for any reduc-
19 tion in the value of property against the amount of
20 damages awarded pursuant to any claim or cause of
21 action, under the Constitution or any other law, that
22 arises from the same reduction in the value of the
23 same property.

24 (2) PAYMENTS UNDER THIS TITLE.—The
25 amount awarded pursuant to any claim or cause of

1 action, under the Constitution or any other law, for
2 any reduction in the value of a property shall be
3 credited against the amount of any payment made
4 pursuant to subsection (a) with respect to the same
5 reduction in the value of the same property.

6 (i) SOURCE OF PAYMENT FUNDS.—

7 (1) USE OF AGENCY FUNDS.—Except as pro-
8 vided in paragraphs (2) and (3), and notwithstand-
9 ing any other provision of law, any payment made
10 pursuant to subsection (a) shall be paid from the an-
11 nual appropriation of the agency or agencies taking
12 the action for which the payment is required. For
13 the purpose of making such a payment, the head of
14 the agency may transfer or reprogram any funds
15 available to the agency.

16 (2) ALTERNATIVE SOURCE OF FUNDS.—If the
17 agency taking the action referred to in paragraph
18 (2) or (5) of subsection (a) does not have sufficient
19 funds available to complete the payment required by
20 this section with respect to the action, the Comptrol-
21 ler General of the United States shall identify the
22 most appropriate Federal source of funds to com-
23 plete the payment and the President shall complete
24 the payment using funds from such source, notwith-
25 standing any other provision of law.

1 (3) LAND EXCHANGE.—In lieu of payment
2 under paragraph (1) or (2), the President may enter
3 into an agreement with the private property owner
4 who is entitled to the compensation for which the
5 payment is required to provide all or part of the
6 compensation by exchanging all or part of the af-
7 fected private property for property owned by the
8 United States and identified by the President as
9 suitable for such an exchange. The properties trans-
10 ferred as part of such an exchange shall be of equal
11 value, as determined under section 206(d) of the
12 Federal Land Policy and Management Act of 1976
13 (43 U.S.C. 1716(d)).

14 **SEC. 9003. SEVERABILITY.**

15 If any provision of this title, or the application thereof
16 to any person or circumstance, is held invalid, the remain-
17 der of this title and the application of such provision to
18 other persons and circumstances shall not be affected.

19 **SEC. 9004. DEFINITIONS.**

20 For purposes of this title:

21 (1) AGENCY.—The term “agency” has the
22 meaning given that term in section 551(1) of title 5,
23 United States Code.

1 (2) AGENCY ACTION.—The term “agency ac-
2 tion” has the meaning given that term in section
3 551(13) of title 5, United States Code.

4 (3) FAIR MARKET VALUE.—Unless stated other-
5 wise, the term “fair market value of the property”
6 means the fair market value of property determined
7 as of the date on which the private property owner
8 makes a claim under this title with respect to the
9 property.

10 (4) FINAL AGENCY ACTION.—The term “final
11 agency action” means an agency action that is in-
12 tended to or does bind a private property owner with
13 respect to the use of the property. Such term in-
14 cludes but is not limited to the following:

15 (A) Denial of a permit.

16 (B) Issuance of a cease and desist order.

17 (C) Issuance of a statement under section
18 7(b)(3) of the Endangered Species Act of 1973
19 (16 U.S.C. 1536(b)(3)).

20 (D) Issuance of a permit with conditions.

21 (E) Commencement of a civil or criminal
22 proceeding arising out of failure to secure a
23 permit.

24 (5) PRIVATE PROPERTY OWNER.—The term
25 “private property owner” means a person (other

1 than the United States, a department, agency, or in-
2 strumentality thereof, or an officer, employee, or
3 agent thereof when acting on behalf of his or her
4 employing authority) that—

5 (A) owns property referred to in paragraph

6 (6)(A); or

7 (B) holds property referred to in para-
8 graph (6)(B).

9 (6) PROPERTY.—The term “property” means—

10 (A) land; and

11 (B) the right to use or receive water.

12 (7) REDUCTION IN THE VALUE OF PROP-
13 erty.—The term “reduction in the value of prop-
14 erty” means the difference, if greater than zero, be-
15 tween—

16 (A) the fair market value of property, as
17 determined based on the value of the property
18 if an agency action referred to in paragraph (2)
19 or (5) of section 9002(a), as the case may be,
20 were not implemented; minus

21 (B) the fair market value of property, as
22 determined based on the value of the property
23 if an agency action referred to in paragraph (2)
24 or (5) of section 9002(a), as the case may be,
25 were implemented.

1 (8) USE—The term “use” means a prior, exist-
2 ing, or potential utilization of property, by the pri-
3 vate property owner, which is—

4 (A) predictable; and

5 (B) consistent with the utilization of prop-
6 erty of the same general type or with property
7 usage in the geographic area in which the prop-
8 erty is located.

9 **TITLE X—ESTABLISHMENT OF**
10 **FEDERAL MANDATE BUDGET**
11 **COST CONTROL**

12 **SEC. 10001. AMENDMENTS TO THE CONGRESSIONAL BUDG-**
13 **ET ACT OF 1974.**

14 (a) FEDERAL REGULATORY BUDGET COST CONTROL
15 SYSTEM.—Title III of the Congressional Budget Act of
16 1974, as amended by section 4001(a) of this Act, is fur-
17 ther amended by adding after part B the following new
18 part:

19 **“PART C—FEDERAL MANDATE BUDGET COST**
20 **CONTROL**

21 **“SEC. 331. OMB-CBO REPORTS.**

22 “(a) OMB-CBO INITIAL REPORT.—Within 1 year
23 after the date of enactment of this section, OMB and CBO
24 shall jointly issue a report to the President and each
25 House of Congress that contains the following:

1 “(1) For the first budget year beginning after
2 the issuance of this report, a projection of the aggregate
3 direct cost to States and local governments of
4 complying with all Federal mandates in effect immediately
5 before issuance of the report containing the
6 projection for that budget year of the effect of current-year
7 Federal mandates into the budget year and the outyears based on those mandates.

9 “(2) A calculation of the estimated aggregate
10 direct cost to States and local governments of compliance
11 with all Federal mandates as a percentage of
12 the gross domestic product (GDP).

13 “(3) The estimated marginal cost (measured as
14 a reduction in estimated gross domestic product) to
15 States and local governments of compliance with all
16 Federal mandates in excess of the cap (to be determined
17 under paragraph (5)) allowable for the sixth
18 year following the budget year and subsequent fiscal
19 years.

20 “(4) The effect on the domestic economy of different
21 types of Federal mandates.

22 “(5) The appropriate level of personnel, administrative
23 overhead, and programmatic savings that
24 should be achieved on a fiscal year by fiscal year
25 basis by Federal agencies that issue mandates with

1 direct costs to States and local governments through
2 the reduction of such aggregate costs to States and
3 local governments by 6.5 percent for the budget year
4 (as measured against the aggregate mandate base-
5 line for the first budget year to which this part ap-
6 plies) and by 6.5 percent increments for each of the
7 outyears (until the aggregate level of such costs does
8 not exceed 3 percent of the estimated gross domestic
9 product for the same fiscal year as the estimated
10 costs that will be incurred).

11 “(6) Recommendations for budgeting, technical,
12 and estimating changes to improve the Federal man-
13 date budgeting process.

14 “(b) UPDATE REPORTS.—OMB and CBO shall issue
15 update reports on September 15th of the fifth year begin-
16 ning after issuance of the initial report and at 5-year in-
17 tervals thereafter containing all the information required
18 in the initial report, but based upon all Federal mandates
19 in effect immediately before issuance of the most recent
20 update report.

21 “(c) INITIAL BASELINE REPORT.—Within 30 days
22 after the date of enactment of this section, OMB and CBO
23 shall jointly issue a report to the President and each
24 House of Congress that contains an initial aggregate man-
25 date baseline for the first budget year that begins at least

1 120 days after that date of enactment. That baseline will
2 be a projection of the aggregate direct cost to States and
3 local governments of complying with all Federal mandates
4 in effect immediately before issuance of the report contain-
5 ing the projection for that budget year of the effect of
6 current-year Federal mandates into the budget year and
7 the outyears based on those mandates.

8 **“SEC. 332. AGGREGATE MANDATE BASELINE.**

9 “(a) IN GENERAL.—For the first budget year begin-
10 ning after the date of enactment of this section and for
11 every other fiscal year thereafter, the aggregate mandate
12 baseline refers to a projection of the aggregate direct cost
13 to States and local governments of complying with all Fed-
14 eral mandates in effect immediately before issuance of the
15 report containing the projection for that budget year of
16 the effect of current-year Federal mandates into the budg-
17 et year and the outyears based on those mandates. How-
18 ever, in the case of each of the succeeding fiscal years,
19 the baseline shall be adjusted for the estimated growth
20 during that year in the gross domestic product (GDP).

21 “(b) OMB–CBO AGGREGATE MANDATE BASELINE
22 REPORTS.—(1) The first budget year for which there shall
23 be an aggregate mandate baseline shall be the budget year
24 to which the initial OMB–CBO baseline report issued
25 under section 331(c) pertains.

1 “(2) In the case of each budget year after the budget
2 year referred to in paragraph (1), not later than Septem-
3 ber 15 of the current year, OMB and CBO shall jointly
4 issue a report containing the baseline referred to in sub-
5 section (a) for that budget year.

6 **“SEC. 333. RECONCILIATION AND ALLOCATIONS.**

7 “(a) RECONCILIATION DIRECTIVES.—In addition to
8 the requirements of section 310, a concurrent resolution
9 on the budget for any fiscal year shall specify—

10 “(1) changes in laws, regulations, and rules
11 necessary to reduce the aggregate direct cost to
12 States and local governments of complying with all
13 Federal mandates by 6.5 percent for the budget year
14 (as measured against the aggregate mandate base-
15 line for the first budget year to which this part ap-
16 plies) and by 6.5 percent increments for each of the
17 outyears (until the aggregate level of such costs does
18 not exceed 3 percent of the estimated gross domestic
19 product for the same fiscal year as the estimated
20 costs that will be incurred) for Federal agencies that
21 issue mandates producing direct costs to States and
22 local governments; and

23 “(2) changes in laws necessary to achieve re-
24 ductions in the level of personnel and administrative
25 overhead and to achieve programmatic savings for

1 the budget year and the outyears for those agencies
2 of the following:

3 “(A) In the first outyear, one-fourth of the
4 percent of reduction in mandate authority from
5 the aggregate mandate base.

6 “(B) In the second outyear, one-third of
7 the percent of reduction in mandate authority
8 from the aggregate mandate base.

9 “(C) In the third, fourth, fifth, and sixth
10 years following the budget year, one-half of the
11 percent of reduction in mandate authority from
12 the aggregate mandate base.

13 Section 310(c) shall not apply with respect to directions
14 made under this section.

15 “(b) ALLOCATION OF TOTALS.—(1) The Committees
16 on the Budget of the House of Representatives and the
17 Senate shall each allocate aggregate 2-year mandate au-
18 thority among each committee of its House and by major
19 functional category for the first budget year beginning
20 after the date of enactment of this section and for the
21 second, fourth, and sixth years following the budget year
22 and then every other year thereafter.

23 “(2) As soon as practicable after receiving an alloca-
24 tion under paragraph (1), each committee shall subdivide

1 its allocation among its subcommittees or among pro-
2 grams over which it has jurisdiction.

3 “(c) POINT OF ORDER.—(1) It shall not be in order
4 in the House of Representatives or the Senate to consider
5 any bill or resolution, or amendment thereto, which would
6 cause the appropriate allocation made under subsection
7 (b) for a fiscal year of mandate authority to be exceeded.

8 “(2) WAIVER.—The point of order set forth in para-
9 graph (1) may only be waived by the affirmative vote of
10 at least three-fifths of the Members voting, a quorum
11 being present.

12 “(d) DETERMINATIONS BY BUDGET COMMITTEES.—
13 For purposes of this section, the level of mandate author-
14 ity for a fiscal year shall be determined by the Committee
15 on the Budget of the House of Representatives or the Sen-
16 ate, as the case may be.

17 “(e) EXCEEDING ALLOCATION TOTALS.—Whenever
18 any Committee of the House of Representatives exceeds
19 its allocation of aggregate 2-year mandate authority under
20 subsection (b)(1), any Member of the House of Represent-
21 atives may offer a bill in the House (which shall be highly
22 privileged, unamendable, and debateable for 30 minutes)
23 which shall only prohibit the issuance of mandates by any
24 agency under the jurisdiction of that committee for the

1 fiscal years covered by that allocation until that committee
2 eliminates its breach.

3 **“SEC. 334. ANALYSIS OF MANDATES COSTS BY CONGRES-**
4 **SIONAL BUDGET OFFICE.**

5 “CBO shall prepare for each bill or resolution of a
6 public character reported by any committee of the House
7 of Representatives or the Senate (except the Committee
8 on Appropriations of each House), and submit to such
9 committee—

10 “(1) an estimate of the costs which would be in-
11 curred by States and local governments in carrying
12 out or complying with such bill or resolution in the
13 fiscal year in which it is to become effective and in
14 each of the 4 fiscal years following such fiscal year,
15 together with the basis of each such estimate; and

16 “(2) a comparison of the estimate of costs de-
17 scribed in paragraph (1) with any available esti-
18 mates of costs made by such committee or by any
19 Federal agency.

20 **“SEC. 335. DEFINITIONS.**

21 “As used in this part:

22 “(1) The term ‘CBO’ refers to the Director of
23 the Congressional Budget Office.

24 “(2) The term ‘OMB’ refers to the Director of
25 the Office of Management and Budget.

1 “(3) The term ‘costs’ when referring to ‘man-
2 dates’ means the direct cost to States and local gov-
3 ernments of complying with Federal mandates.

4 “(4) The term ‘direct costs’ means (recognizing
5 that direct costs are not the only costs associated
6 with Federal mandates) all expenditures occurring
7 as a direct result of complying with Federal man-
8 dates, except those applying to the military or agen-
9 cy organization, management, and personnel.”.

10 **SEC. 10002. PRESIDENT’S ANNUAL BUDGET SUBMISSIONS.**

11 Section 1105(a) of title 31, United States Code, as
12 amended by section 4002 of this Act, is further amended
13 by adding after paragraph (32) the following new para-
14 graph:

15 “(33) a mandate authority budget analysis of
16 the aggregate direct cost to States and local govern-
17 ments of complying with all current and proposed
18 Federal mandates and proposals for complying with
19 section 333 of the Congressional Budget Act of
20 1974 for the budget year and the outyears.”

21 **SEC. 10003. ESTIMATION AND DISCLOSURE OF COSTS OF**
22 **FEDERAL MANDATES.**

23 (a) COSTS TO STATE AND LOCAL GOVERNMENTS.—
24 Chapter 6 of title 5, United States Code, popularly known
25 as the “Regulatory Flexibility Act”, is amended—

1 (1) in section 603, as amended by section
2 4003(2) of this Act, by adding after subsection (d)
3 the following:

4 “(e) Each initial regulatory flexibility analysis for a
5 proposed rule that establishes or implements a new Fed-
6 eral mandate shall also contain a description of the nature
7 and amount of monetary costs that will be incurred by
8 State and local governments in complying with the Federal
9 mandate.”; and

10 (2) in section 604(a), as amended by section
11 4003(3) of this Act—

12 (A) in paragraph (3) by striking “and”
13 after the semicolon;

14 (B) in paragraph (4) by striking the period
15 and inserting “; and”; and

16 (C) by adding after paragraph (4) the fol-
17 lowing:

18 “(5) in the case of an analysis for a rule that
19 establishes or implements a new Federal mandate, a
20 statement of the nature and amount of monetary
21 costs that will be incurred by State and local govern-
22 ments in complying with the Federal mandate.”.

23 (b) AGENCY REPORTS.—Each agency that under
24 chapter 6 of title 5, United States Code, prepares an ini-
25 tial regulatory flexibility analysis for a proposed rule that

1 establishes or implements a new Federal mandate shall at
2 the same time submit to each House of Congress and to
3 CBO and OMB a cost estimate and cost/benefit analysis
4 of any new Federal mandate that would have an aggregate
5 direct cost to State and local governments of at least
6 \$10,000,000 for any fiscal year.

7 **TITLE XI—TAXPAYER DEBT BUY-**
8 **DOWN**

9 **SEC. 11001. DESIGNATION OF AMOUNTS FOR REDUCTION**
10 **OF PUBLIC DEBT.**

11 (a) IN GENERAL.—Subchapter A of chapter 61 of the
12 Internal Revenue Code of 1986 (relating to returns and
13 records) is amended by adding at the end the following
14 new part:

15 **“PART IX—DESIGNATION FOR REDUCTION OF**
16 **PUBLIC DEBT**

“Sec. 6097. Designation.

17 **“SEC. 6097. DESIGNATION.**

18 “(a) IN GENERAL.—Every individual with adjusted
19 income tax liability for any taxable year may designate
20 that a portion of such liability (not to exceed 10 percent
21 thereof) shall be used to reduce the public debt.

22 “(b) MANNER AND TIME OF DESIGNATION.—A des-
23 ignation under subsection (a) may be made with respect
24 to any taxable year only at the time of filing the return

1 of tax imposed by chapter 1 for the taxable year. The des-
2 ignation shall be made on the first page of the return or
3 on the page bearing the taxpayer's signature.

4 “(c) ADJUSTED INCOME TAX LIABILITY.—For pur-
5 poses of this section, the term ‘adjusted income tax liabil-
6 ity’ means income tax liability (as defined in section
7 6096(b)) reduced by any amount designated under section
8 6096 (relating to designation of income tax payments to
9 Presidential Election Campaign Fund).”

10 (b) CLERICAL AMENDMENT.—The table of parts for
11 such subchapter A is amended by adding at the end the
12 following new item:

“Part IX. Designation for reduction of public debt.”

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years ending after the
15 date of the enactment of this Act.

16 **SEC. 11002. PUBLIC DEBT REDUCTION TRUST FUND.**

17 (a) IN GENERAL.—Subchapter A of chapter 98 of the
18 Internal Revenue Code of 1986 (relating to trust fund
19 code) is amended by adding at the end the following sec-
20 tion:

21 **“SEC. 9512. PUBLIC DEBT REDUCTION TRUST FUND.**

22 “(a) CREATION OF TRUST FUND.—There is estab-
23 lished in the Treasury of the United States a trust fund
24 to be known as the ‘Public Debt Reduction Trust Fund’,

1 consisting of any amount appropriated or credited to the
2 Trust Fund as provided in this section or section 9602(b).

3 “(b) TRANSFERS TO TRUST FUND.—There are here-
4 by appropriated to the Public Debt Reduction Trust Fund
5 amounts equivalent to the amounts designated under sec-
6 tion 6097 (relating to designation for public debt reduc-
7 tion).

8 “(c) EXPENDITURES.—Amounts in the Public Debt
9 Reduction Trust Fund shall be used by the Secretary of
10 the Treasury for purposes of paying at maturity, or to
11 redeem or buy before maturity, any obligation of the Fed-
12 eral Government included in the public debt (other than
13 an obligation held by the Federal Old-Age and Survivors
14 Insurance Trust Fund, the Civil Service Retirement and
15 Disability Fund, or the Department of Defense Military
16 Retirement Fund). Any obligation which is paid, re-
17 deemed, or bought with amounts from the Public Debt Re-
18 duction Trust Fund shall be canceled and retired and may
19 not be reissued.”

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for such subchapter is amended by adding at the end the
22 following new item:

“Sec. 9512. Public Debt Reduction Trust Fund.”

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to amounts received after the date
25 of the enactment of this Act.

1 **SEC. 11003. TAXPAYER-GENERATED SEQUESTRATION OF**
2 **FEDERAL SPENDING TO REDUCE THE PUBLIC**
3 **DEBT.**

4 (a) SEQUESTRATION TO REDUCE THE PUBLIC
5 DEBT.—Part C of the Balanced Budget and Emergency
6 Deficit Control Act of 1985 is amended by adding after
7 section 253 the following new section:

8 **“SEC. 253A. SEQUESTRATION TO REDUCE THE PUBLIC**
9 **DEBT.**

10 “(a) SEQUESTRATION.—Notwithstanding sections
11 255 and 256, within 15 days after Congress adjourns to
12 end a session, and on the same day as sequestration (if
13 any) under sections 251, 252, and 253, but after any se-
14 questration required by those sections, there shall be a se-
15 questration equivalent to the estimated aggregate amount
16 designated under section 6097 of the Internal Revenue
17 Code of 1986 for the last taxable year ending one year
18 before the beginning of that session of Congress, as esti-
19 mated by the Department of the Treasury on October 1
20 and as modified by the total of (1) any amounts by which
21 net discretionary spending is reduced by legislation below
22 the discretionary spending limits enacted after the enact-
23 ment of this section related to the fiscal year subject to
24 the sequestration (or, in the absence of such limits, any
25 net deficit change from the baseline amount calculated
26 under section 257 (except that such baseline for fiscal year

1 1996 and thereafter shall be based upon fiscal year 1995
2 enacted appropriations less any 1995 sequesters)) and (2)
3 the net deficit change that has resulted from all direct
4 spending legislation enacted after the enactment of this
5 section related to the fiscal year subject to the sequestra-
6 tion, as estimated by OMB. If the reduction in spending
7 under paragraphs (1) and (2) for a fiscal year is greater
8 than the estimated aggregate amount designated under
9 section 6097 of the Internal Revenue Code of 1986 re-
10 specting that fiscal year, then there shall be no sequestra-
11 tion under this section.

12 “(b) APPLICABILITY.—

13 “(1) IN GENERAL.—Except as provided by
14 paragraph (2), each account of the United States
15 shall be reduced by a dollar amount calculated by
16 multiplying the level of budgetary resources in that
17 account at that time by the uniform percentage nec-
18 essary to carry out subsection (a). All obligational
19 authority reduced under this section shall be done in
20 a manner that makes such reductions permanent.

21 “(2) EXEMPT ACCOUNTS.—No order issued
22 under this part may—

23 “(A) reduce benefits payable the old-age
24 and survivors insurance program established
25 under title II of the Social Security Act;

1 “(B) reduce payments for net interest (all
2 of major functional category 900); or

3 “(C) make any reduction in the following
4 accounts:

5 “Federal Deposit Insurance Corpora-
6 tion, Bank Insurance Fund;

7 “Federal Deposit Insurance Corpora-
8 tion, FSLIC Resolution Fund;

9 “Federal Deposit Insurance Corpora-
10 tion, Savings Association Insurance Fund;

11 “National Credit Union Administra-
12 tion, credit union share insurance fund; or

13 “Resolution Trust Corporation.”

14 (b) REPORTS.—Section 254 of the Balanced Budget
15 and Emergency Deficit Control Act of 1985 is amended—

16 (1) in subsection (a), by inserting after the item
17 relating to the GAO compliance report the following:

18 “October 1 . . . Department of Treasury report to
19 Congress estimating amount of income tax designated
20 pursuant to section 6097 of the Internal Revenue Code
21 of 1986.”;

22 (2) in subsection (d)(1), by inserting “, and se-
23 questration to reduce the public debt,”;

1 (3) in subsection (d), by redesignating para-
2 graph (5) as paragraph (6) and by inserting after
3 paragraph (4) the following new paragraph:

4 “(5) SEQUESTRATION TO REDUCE THE PUBLIC
5 DEBT REPORTS.—The preview reports shall set forth
6 for the budget year estimates for each of the follow-
7 ing:

8 “(A) The aggregate amount designated
9 under section 6097 of the Internal Revenue
10 Code of 1986 for the last taxable year ending
11 before the budget year.

12 “(B) The amount of reductions required
13 under section 253A and the deficit remaining
14 after those reductions have been made.

15 “(C) The sequestration percentage nec-
16 essary to achieve the required reduction in ac-
17 counts under section 253A(b).”; and

18 (4) in subsection (g), by redesignating para-
19 graphs (4) and (5) as paragraphs (5) and (6), re-
20 spectively, and by inserting after paragraph (3) the
21 following new paragraph:

22 “(4) SEQUESTRATION TO REDUCE THE PUBLIC
23 DEBT REPORTS.—The final reports shall contain all
24 of the information contained in the public debt tax-
25 ation designation report required on October 1.”.

1 (c) EFFECTIVE DATE.—Notwithstanding section
2 275(b) of the Balanced Budget and Emergency Deficit
3 Control Act of 1985, the expiration date set forth in that
4 section shall not apply to the amendments made by this
5 section. The amendments made by this section shall cease
6 to have any effect after the first fiscal year during which
7 there is no public debt.

8 **TITLE XII—SMALL BUSINESS**
9 **INCENTIVES**

10 **SEC. 12001. INCREASE IN UNIFIED ESTATE AND GIFT TAX**

11 **CREDITS.**

12 (a) ESTATE TAX CREDIT.—

13 (1) Subsection (a) of section 2010 of the Inter-
14 nal Revenue Code of 1986 (relating to unified credit
15 against estate tax) is amended by striking
16 “\$192,800” and inserting “the applicable credit
17 amount”.

18 (2) Section 2010 of such Code is amended by
19 redesignating subsection (c) as subsection (d) and by
20 inserting after subsection (b) the following new sub-
21 section:

22 “(c) APPLICABLE CREDIT AMOUNT.—For purposes
23 of this section—

24 “(1) IN GENERAL.—The applicable credit
25 amount is the amount of the tentative tax which

1 would be determined under the rate schedule set
 2 forth in section 2001(c) if the amount with respect
 3 to which such tentative tax is to be computed were
 4 the applicable exclusion amount determined in ac-
 5 cordance with the following table:

“In the case of estates of decedents dying, and gifts made, during:	The applicable exclusion amount is:
1996	\$700,000
1997	\$725,000
1998 or thereafter	\$750,000.

6 “(2) COST-OF-LIVING ADJUSTMENTS.—In the
 7 case of any decedent dying, and gift made, in a cal-
 8 endar year after 1998, the \$750,000 amount set
 9 forth in paragraph (1) shall be increased by an
 10 amount equal to—

11 “(A) \$750,000, multiplied by

12 “(B) the cost-of-living adjustment deter-
 13 mined under section 1(f)(3) for such calendar
 14 year by substituting ‘calendar year 1997’ for
 15 ‘calendar year 1992’ in subparagraph (B)
 16 thereof.

17 Any increase determined under the preceding sen-
 18 tence shall be rounded to the nearest multiple of
 19 \$1,000.”

20 (3) Paragraph (1) of section 6018(a) of such
 21 Code is amended by striking “\$600,000” and insert-
 22 ing “the applicable exclusion amount in effect under
 23 section 2010(c) (as adjusted under paragraph (2)

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall apply to taxable years beginning after
3 December 31, 1995.

4 **SEC. 12003. CLARIFICATION OF DEFINITION OF PRINCIPAL**
5 **PLACE OF BUSINESS.**

6 (a) IN GENERAL.—Subsection (f) of section 280A of
7 the Internal Revenue Code of 1986 is amended by redesi-
8 gnating paragraphs (2), (3), and (4) as paragraphs (3), (4),
9 and (5), respectively, and by inserting after paragraph (1)
10 the following new paragraph:

11 “(2) PRINCIPAL PLACE OF BUSINESS.—For
12 purposes of subsection (c), a home office shall in any
13 case qualify as the principal place of business if—

14 “(A) the office is the location where the
15 taxpayer’s essential administrative or manage-
16 ment activities are conducted on a regular and
17 systematic (and not incidental) basis by the tax-
18 payer, and

19 “(B) the office is necessary because the
20 taxpayer has no other location for the perform-
21 ance of the administrative or management ac-
22 tivities of the business.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall apply to taxable years beginning after
25 December 31, 1995.

1 **SEC. 12004. TREATMENT OF STORAGE OF PRODUCT SAM-**
 2 **PLES.**

3 (a) IN GENERAL.—Paragraph (2) of section 280A(c)
 4 of the Internal Revenue Code of 1986 is amended by strik-
 5 ing “inventory” and inserting “inventory or product sam-
 6 ples”.

7 (b) EFFECTIVE DATE.—The amendment made by
 8 subsection (a) shall apply to taxable years beginning after
 9 December 31, 1995.

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