Public Law 104–121
104th Congress

An Act

To provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

Mar. 29, 1996
[H.R. 3136]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Contract with America Advancement Act of 1996.
5 USC 601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Contract with America Advancement Act of 1996".

TITLE I—SOCIAL SECURITY EARNINGS LIMITATION AMENDMENTS

Senior Citizens' Right to Work Act of 1996.

SEC. 101. SHORT TITLE OF TITLE.

42 USC 1305 note.

This title may be cited as the "Senior Citizens' Right to Work Act of 1996".

SEC. 102. INCREASES IN MONTHLY EXEMPT AMOUNT FOR PURPOSES OF THE SOCIAL SECURITY EARNINGS LIMIT.

(a) INCREASE IN MONTHLY EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

"(i) for each month of any taxable year ending after 1995 and before 1997, $1,041.66⅔,

"(ii) for each month of any taxable year ending after 1996 and before 1998, $1,125.00,

"(iii) for each month of any taxable year ending after 1997 and before 1999, $1,208.33⅓,

"(iv) for each month of any taxable year ending after 1998 and before 2000, $1,291.66⅔,

"(v) for each month of any taxable year ending after 1999 and before 2001, $1,416.66⅔,

"(vi) for each month of any taxable year ending after 2000 and before 2002, $2,083.33⅓, and

"(vii) for each month of any taxable year ending after 2001 and before 2003, $2,500.00.".

(b) CONFORMING AMENDMENTS.—

(1) Section 203(f)(8)(B)(ii) of such Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended—

(A) by striking "the taxable year ending after 1993 and before 1995" and inserting "the taxable year ending after 2001 and before 2003 (with respect to individuals described in subparagraph (D)) or the taxable year ending after 1993 and before 1995 (with respect to other individuals)"; and

(B) in subclause (II), by striking "for 1992" and inserting "for 2000 (with respect to individuals described in subparagraph (D)) or 1992 (with respect to other individuals)".

(2) The second sentence of section 223(d)(4)(A) of such Act (42 U.S.C. 423(d)(4)(A)) is amended by striking "the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof" and inserting the following: "an amount equal to the exempt amount which would be applicable under section 203(f)(8), to individuals described in subparagraph (D) thereof, if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted".

42 USC 403 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after 1995.

SEC. 103. CONTINUING DISABILITY REVIEWS.

(a) AUTHORIZATION FOR APPROPRIATIONS FOR CONTINUING DISABILITY REVIEWS.—Section 201(g)(1)(A) of the Social Security Act (42 U.S.C. 401(g)(1)(A)) is amended by adding at the end the following: "Of the amounts authorized to be made available out of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under the preceding sentence, there are hereby authorized to be made available from either or both of such Trust Funds for continuing disability reviews—

"(i) for fiscal year 1996, $260,000,000;
"(ii) for fiscal year 1997, $360,000,000;
"(iii) for fiscal year 1998, $570,000,000;
"(iv) for fiscal year 1999, $720,000,000;
"(v) for fiscal year 2000, $720,000,000;
"(vi) for fiscal year 2001, $720,000,000; and
"(viii) for fiscal year 2002, $720,000,000.

For purposes of this subparagraph, the term 'continuing disability review' means a review conducted pursuant to section 221(i) and a review or disability eligibility redetermination conducted to determine the continuing disability and eligibility of a recipient of benefits under the supplemental security income program under title XVI, including any review or redetermination conducted pursuant to section 207 or 208 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296).".

(b) ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding the following new subparagraph:

2 USC 901.

"(H) CONTINUING DISABILITY REVIEWS.—(i) Whenever a bill or joint resolution making appropriations for fiscal year 1996, 1997, 1998, 1999, 2000, 2001, or 2002 is enacted that specifies an amount for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, the adjustments

for that fiscal year shall be the additional new budget authority provided in that Act for such reviews for that fiscal year and the additional outlays flowing from such amounts, but shall not exceed—

"(I) for fiscal year 1996, $15,000,000 in additional new budget authority and $60,000,000 in additional outlays;

"(II) for fiscal year 1997, $25,000,000 in additional new budget authority and $160,000,000 in additional outlays;

"(III) for fiscal year 1998, $145,000,000 in additional new budget authority and $370,000,000 in additional outlays;

"(IV) for fiscal year 1999, $280,000,000 in additional new budget authority and $520,000,000 in additional outlays;

"(V) for fiscal year 2000, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays;

"(VI) for fiscal year 2001, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays; and

"(VII) for fiscal year 2002, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays.

"(ii) As used in this subparagraph—

"(I) the term 'continuing disability reviews' has the meaning given such term by section 201(g)(1)(A) of the Social Security Act;

"(II) the term 'additional new budget authority' means new budget authority provided for a fiscal year, in excess of $100,000,000, for the Supplemental Security Income program and specified to pay for the costs of continuing disability reviews attributable to the Supplemental Security Income program; and

"(III) the term 'additional outlays' means outlays, in excess of $200,000,000 in a fiscal year, flowing from the amounts specified for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, including outlays in that fiscal year flowing from amounts specified in Acts enacted for prior fiscal years (but not before 1996).".

(c) BUDGET ALLOCATION ADJUSTMENT BY BUDGET COMMITTEE.—Section 606 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding the following new subsection: 2 USC 665e.

"(e) CONTINUING DISABILITY REVIEW ADJUSTMENT.—

"(1) IN GENERAL.—(A) For fiscal year 1996, upon the enactment of the Contract with America Advancement Act of 1996, the Chairmen of the Committees on the Budget of the Senate and House of Representatives shall make the adjustments referred to in subparagraph (C) to reflect $15,000,000 in additional new budget authority and $60,000,000 in additional outlays for continuing disability reviews (as defined in section 201(g)(1)(A) of the Social Security Act).

"(B) When the Committee on Appropriations reports an appropriations measure for fiscal year 1997, 1998, 1999, 2000,

2001, or 2002 that specifies an amount for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, or when a conference committee submits a conference report thereon, the Chairman of the Committee on the Budget of the Senate or House of Representatives (whichever is appropriate) shall make the adjustments referred to in subparagraph (C) to reflect the additional new budget authority for continuing disability reviews provided in that measure or conference report and the additional outlays flowing from such amounts for continuing disability reviews.

"(C) The adjustments referred to in this subparagraph consist of adjustments to—

"(i) the discretionary spending limits for that fiscal year as set forth in the most recently adopted concurrent resolution on the budget;

"(ii) the allocations to the Committees on Appropriations of the Senate and the House of Representatives for that fiscal year under sections 302(a) and 602(a); and

"(iii) the appropriate budgetary aggregates for that fiscal year in the most recently adopted concurrent resolution on the budget.

"(D) The adjustments under this paragraph for any fiscal year shall not exceed the levels set forth in section 251(b)(2)(H) of the Balanced Budget and Emergency Deficit Control Act of 1985 for that fiscal year. The adjusted discretionary spending limits, allocations, and aggregates under this paragraph shall be considered the appropriate limits, allocations, and aggregates for purposes of congressional enforcement of this Act and concurrent budget resolutions under this Act.

"(2) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under paragraph (1), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to sections 302(b) and 602(b) of this Act to carry out this subsection.

"(3) DEFINITIONS.—As used in this section, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(H)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

42 USC 401 note.

(d) USE OF FUNDS AND REPORTS.—

(1) IN GENERAL.—The Commissioner of Social Security shall ensure that funds made available for continuing disability reviews (as defined in section 201(g)(1)(A) of the Social Security Act) are used, to the greatest extent practicable, to maximize the combined savings in the old-age, survivors, and disability insurance, supplemental security income, Medicare, and medicaid programs.

(2) REPORT.—The Commissioner of Social Security shall provide annually (at the conclusion of each of the fiscal years 1996 through 2002) to the Congress a report on continuing disability reviews which includes—

(A) the amount spent on continuing disability reviews in the fiscal year covered by the report, and the number of reviews conducted, by category of review;

(B) the results of the continuing disability reviews in terms of cessations of benefits or determinations of continuing eligibility, by program; and

(C) the estimated savings over the short-, medium-, and long-term to the old-age, survivors, and disability insurance, supplemental security income, Medicare, and medicaid programs from continuing disability reviews which result in cessations of benefits and the estimated present value of such savings.

(e) OFFICE OF CHIEF ACTUARY IN THE SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 702 of the Social Security Act (42 U.S.C. 902) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection:

"CHIEF ACTUARY

"(c)(1) There shall be in the Administration a Chief Actuary, who shall be appointed by, and in direct line of authority to, the Commissioner. The Chief Actuary shall be appointed from individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary shall serve as the chief actuarial officer of the Administration, and shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence. The Chief Actuary may be removed only for cause.

"(2) The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.".

(2) EFFECTIVE DATE OF SUBSECTION.—The amendments made by this subsection shall take effect on the date of the enactment of this Act. 42 USC 902 note.

SEC. 104. ENTITLEMENT OF STEPCHILDREN TO CHILD'S INSURANCE BENEFITS BASED ON ACTUAL DEPENDENCY ON STEPPARENT SUPPORT.

(a) REQUIREMENT OF ACTUAL DEPENDENCY FOR FUTURE ENTITLEMENTS.—

(1) IN GENERAL.—Section 202(d)(4) of the Social Security Act (42 U.S.C. 402(d)(4)) is amended by striking "was living with or".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to benefits of individuals who become entitled to such benefits for months after the third month following the month in which this Act is enacted. 42 USC 402 note.

(b) TERMINATION OF CHILD'S INSURANCE BENEFITS BASED ON WORK RECORD OF STEPPARENT UPON NATURAL PARENT'S DIVORCE FROM STEPPARENT.—

(1) IN GENERAL.—Section 202(d)(1) of the Social Security Act (42 U.S.C. 402(d)(1)) is amended—

(A) by striking "or" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) if the benefits under this subsection are based on the wages and self-employment income of a stepparent who is subsequently divorced from such child's natural parent, the month after the month in which such divorce becomes final.".

(2) NOTIFICATION.—Section 202(d) of such Act (42 U.S.C. 402(d)) is amended by adding the following new paragraph: "(10) For purposes of paragraph (1)(H)—

"(A) each stepparent shall notify the Commissioner of Social Security of any divorce upon such divorce becoming final; and

"(B) the Commissioner shall annually notify any stepparent of the rule for termination described in paragraph (1)(H) and of the requirement described in subparagraph (A).".

42 USC 402 note.

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply with respect to final divorces occurring after the third month following the month in which this Act is enacted.

(B) The amendment made by paragraph (2) shall take effect on the date of the enactment of this Act.

SEC. 105. DENIAL OF DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.

(a) AMENDMENTS RELATING TO TITLE II DISABILITY BENEFITS.—

(1) IN GENERAL.—Section 223(d)(2) of the Social Security Act (42 U.S.C. 423(d)(2)) is amended by adding at the end the following:

"(C) An individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 205(j)(1)(B) of such Act (42 U.S.C. 405(j)(1)(B)) is amended to read as follows:

"(B) In the case of an individual entitled to benefits based on disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 205(j)(2)(C)(v) of such Act (42 U.S.C. 405(j)(2)(C)(v)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(C) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking all that follows "15 years, or" and inserting "described in paragraph (1)(B).".

(D) Section 205(j)(4)(A)(i)(II) of such Act (42 U.S.C. 405(j)(4)(A)(ii)(II)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(3) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Section 222 of

such Act (42 U.S.C. 422) is amended by adding at the end the following new subsection:

"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION

"(e) In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 205(j)(1)(B), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).".

(4) CONFORMING AMENDMENT.—Subsection (c) of section 225 of such Act (42 U.S.C. 425(c)) is repealed.

(5) EFFECTIVE DATES.— 42 USC 405 note.

(A) The amendments made by paragraphs (1) and (4) shall apply to any individual who applies for, or whose claim is finally adjudicated by the Commissioner of Social Security with respect to, benefits under title II of the Social Security Act based on disability on or after the date of the enactment of this Act, and, in the case of any individual who has applied for, and whose claim has been finally adjudicated by the Commissioner with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to benefits for which applications are filed after the third month following the month in which this Act is enacted.

(C) Within 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify each individual who is entitled to monthly insurance benefits under title II of the Social Security Act based on disability for the month in which this Act is enacted and whose entitlement to such benefits would terminate by reason of the amendments made by this subsection. If such an individual reapplies for benefits under title II of such Act (as amended by this Act) based on disability within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the entitlement redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

(b) AMENDMENTS RELATING TO SSI BENEFITS.—

(1) IN GENERAL.—Section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 1631(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 1631(a)(2)(B)(vii) of such Act (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(C) Section 1631(a)(2)(B)(ix)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years, or" and inserting "described in subparagraph (A)(ii)(II).".

(D) Section 1631(a)(2)(D)(i)(II) of such Act (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(3) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Title XVI of such Act (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION

42 USC 1383e.

"SEC. 1636. In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 1631(a)(2)(A)(ii)(II), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).".

(4) CONFORMING AMENDMENTS.—

(A) Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(B) Section 1634 of such Act (42 U.S.C. 1383c) is amended by striking subsection (e).

42 USC 1382 note.

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (4) shall apply to any individual who applies for, or whose claim is finally adjudicated by the Commissioner of Social Security with respect to, supplemental security income benefits under title XVI of the Social Security Act based on disability on or after the date of the enactment of this Act, and, in the case of any individual who has applied for, and whose claim has been finally adjudicated by the Commissioner with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act for which applications are filed after the third month following the month in which this Act is enacted.

(C) Within 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify each individual who is eligible for supplemental security income benefits under title XVI of the Social Security Act for the month in which this Act is enacted and whose eligibility for such benefits would terminate by reason of the amendments made by this subsection. If such an individual reapplies for supplemental security income benefits under title XVI of such Act (as amended by this Act) within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the eligibility redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

(D) For purposes of this paragraph, the phrase "supplemental security income benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

(c) CONFORMING AMENDMENT.—Section 201(c) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is repealed.

(d) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33), $50,000,000 for each of the fiscal years 1997 and 1998.

(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) and shall be allocated pursuant to such section 1933.

(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

SEC. 106. PILOT STUDY OF EFFICACY OF PROVIDING INDIVIDUALIZED INFORMATION TO RECIPIENTS OF OLD-AGE AND SURVIVORS INSURANCE BENEFITS.

42 USC 402 note.

(a) IN GENERAL.—During a 2-year period beginning as soon as practicable in 1996, the Commissioner of Social Security shall conduct a pilot study of the efficacy of providing certain individualized information to recipients of monthly insurance benefits under section 202 of the Social Security Act, designed to promote better understanding of their contributions and benefits under the social security system. The study shall involve solely beneficiaries whose entitlement to such benefits first occurred in or after 1984 and who have remained entitled to such benefits for a continuous period of not less than 5 years. The number of such recipients involved in the study shall be of sufficient size to generate a statistically

valid sample for purposes of the study, but shall not exceed 600,000 beneficiaries.

(b) ANNUALIZED STATEMENTS.—During the course of the study, the Commissioner shall provide to each of the beneficiaries involved in the study one annualized statement, setting forth the following information:

(1) an estimate of the aggregate wages and self-employment income earned by the individual on whose wages and self-employment income the benefit is based, as shown on the records of the Commissioner as of the end of the last calendar year ending prior to the beneficiary's first month of entitlement;

(2) an estimate of the aggregate of the employee and self-employment contributions, and the aggregate of the employer contributions (separately identified), made with respect to the wages and self-employment income on which the benefit is based, as shown on the records of the Commissioner as of the end of the calendar year preceding the beneficiary's first month of entitlement; and

(3) an estimate of the total amount paid as benefits under section 202 of the Social Security Act based on such wages and self-employment income, as shown on the records of the Commissioner as of the end of the last calendar year preceding the issuance of the statement for which complete information is available.

(c) INCLUSION WITH MATTER OTHERWISE DISTRIBUTED TO BENEFICIARIES.—The Commissioner shall ensure that reports provided pursuant to this section are, to the maximum extent practicable, included with other reports currently provided to beneficiaries on an annual basis.

(d) REPORT TO THE CONGRESS.—The Commissioner shall report to each House of the Congress regarding the results of the pilot study conducted pursuant to this section not later than 60 days after the completion of such study.

SEC. 107. PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS

42 USC 1320b–15.

"SEC. 1145. (a) IN GENERAL.—No officer or employee of the United States shall—

"(1) delay the deposit of any amount into (or delay the credit of any amount to) any Federal fund or otherwise vary from the normal terms, procedures, or timing for making such deposits or credits,

"(2) refrain from the investment in public debt obligations of amounts in any Federal fund, or

"(3) redeem prior to maturity amounts in any Federal fund which are invested in public debt obligations for any purpose other than the payment of benefits or administrative expenses from such Federal fund.

"(b) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term 'public debt obligation' means any obligation subject to the public debt limit established under section 3101 of title 31, United States Code.

"(c) FEDERAL FUND.—For purposes of this section, the term 'Federal fund' means—

"(1) the Federal Old-Age and Survivors Insurance Trust Fund;

"(2) the Federal Disability Insurance Trust Fund;

"(3) the Federal Hospital Insurance Trust Fund; and

"(4) the Federal Supplementary Medical Insurance Trust Fund.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 42 USC 1320b–15 note.

SEC. 108. PROFESSIONAL STAFF FOR THE SOCIAL SECURITY ADVISORY BOARD.

Section 703(i) of the Social Security Act (42 U.S.C. 903(i)) is amended in the first sentence by inserting after "Staff Director" the following: ", and three professional staff members one of whom shall be appointed from among individuals approved by the members of the Board who are not members of the political party represented by the majority of the Board,".

TITLE II—SMALL BUSINESS REGULATORY FAIRNESS

Small Business Regulatory Enforcement Fairness Act of 1996.

SEC. 201. SHORT TITLE. 5 USC 601 note.

This title may be cited as the "Small Business Regulatory Enforcement Fairness Act of 1996".

SEC. 202. FINDINGS. 5 USC 601 note.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the 1995 White House Conference on Small Business involve reforms to the way government regulations are developed and enforced, and reductions in government paperwork requirements;

(5) the requirements of chapter 6 of title 5, United States Code, have too often been ignored by government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by chapter 6 of title 5, United States Code.

SEC. 203. PURPOSES. 5 USC 601 note.

The purposes of this title are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of chapter 6 of title 5, United States Code;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

5 USC 601 note.

Subtitle A—Regulatory Compliance Simplification

SEC. 211. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 212. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides". The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides.

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—An agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 213. INFORMAL SMALL ENTITY GUIDANCE.

(a) GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency

which regulates small entities, it shall be the practice of the agency to answer inquiries by small entities concerning information on, and advice about, compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) PROGRAM.—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

(c) REPORTING.—Each agency regulating the activities of small business shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on the Judiciary of the House of Representatives no later than 2 years after the date of the enactment of this section on the scope of the agency's program, the number of small entities using the program, and the achievements of the program to assist small entity compliance with agency regulations.

SEC. 214. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking "and" at the end;

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

(3) by inserting after subparagraph (P) the following new subparagraphs:

"(Q) providing information to small business concerns regarding compliance with regulatory requirements; and

"(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 312(a) of the Small Business Regulatory Enforcement Fairness Act of 1996.".

(b) Nothing in this Act in any way affects or limits the ability of other technical assistance or extension programs to perform or continue to perform services related to compliance assistance.

SEC. 215. COOPERATION ON GUIDANCE.

Agencies may, to the extent resources are available and where appropriate, in cooperation with the States, develop guides that fully integrate requirements of both Federal and State regulations where regulations within an agency's area of interest at the Federal and State levels impact small entities. Where regulations vary among the States, separate guides may be created for separate States in cooperation with State agencies.

SEC. 216. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

5 USC 601 note.

Subtitle B—Regulatory Enforcement Reforms

SEC. 221. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 222. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

15 USC 631 note.

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

15 USC 657.

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'Board' means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

"(2) 'Ombudsman' means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

"(b) SBA ENFORCEMENT OMBUDSMAN.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman, who shall report directly to the Administrator, utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

"(2) The Ombudsman shall—

"(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

"(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section 7 of the Inspector General Act of 1978 (5 U.S.C. App.);

"(C) based on substantiated comments received from small business concerns and the Boards, annually report

to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

"(D) coordinate and report annually on the activities, findings and recommendations of the Boards to the Administrator and to the heads of affected agencies; and

"(E) provide the affected agency with an opportunity to comment on draft reports prepared under subparagraph (C), and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

"(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.— Establishment.

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

"(2) Each Board established under paragraph (1) shall—

"(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

"(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

"(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

"(3) Each Board shall consist of five members, who are owners, operators, or officers of small business concerns, appointed by the Administrator, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate. Not more than three of the Board members shall be of the same political party. No member shall be an officer or employee of the Federal Government, in either the executive branch or the Congress.

"(4) Members of the Board shall serve at the pleasure of the Administrator for terms of three years or less.

"(5) The Administrator shall select a chair from among the members of the Board who shall serve at the pleasure of the Administrator for not more than 1 year as chair.

"(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(d) POWERS OF THE BOARDS.

"(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

"(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(3) The Board may accept donations of services necessary to conduct its business, provided that the donations and their sources are disclosed by the Board.

"(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 223. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) CONDITIONS AND EXCLUSIONS.—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

(1) requiring the small entity to correct the violation within a reasonable correction period;

(2) limiting the applicability to violations discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the agency or a State;

(3) excluding small entities that have been subject to multiple enforcement actions by the agency;

(4) excluding violations involving willful or criminal conduct;

(5) excluding violations that pose serious health, safety or environmental threats; and

(6) requiring a good faith effort to comply with the law.

(c) REPORTING.—Agencies shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on Judiciary of the House of Representatives no later than 2 years after the date of enactment of this section on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

SEC. 224. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle C—Equal Access to Justice Act Amendments

SEC. 231. ADMINISTRATIVE PROCEEDINGS.

(a) Section 504(a) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(4) If, in an adversary adjudication arising from an agency action to enforce a party's compliance with a statutory or regulatory requirement, the demand by the agency is substantially in excess

of the decision of the adjudicative officer and is unreasonable when compared with such decision, under the facts and circumstances of the case, the adjudicative officer shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this paragraph shall be paid only as a consequence of appropriations provided in advance.".

(b) Section 504(b) of title 5, United States Code, is amended—

(1) in paragraph (1)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (1)(B), by inserting before the semicolon "or for purposes of subsection (a)(4), a small entity as defined in section 601";

(3) at the end of paragraph (1)(D), by striking "and";

(4) at the end of paragraph (1)(E), by striking the period and inserting "; and"; and

(5) at the end of paragraph (1), by adding the following new subparagraph:

"(F) 'demand' means the express demand of the agency which led to the adversary adjudication, but does not include a recitation by the agency of the maximum statutory penalty (i) in the administrative complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 232. JUDICIAL PROCEEDINGS.

(a) Section 2412(d)(1) of title 28, United States Code, is amended by adding at the end the following new subparagraph:

"(D) If, in a civil action brought by the United States or a proceeding for judicial review of an adversary adjudication described in section 504(a)(4) of title 5, the demand by the United States is substantially in excess of the judgment finally obtained by the United States and is unreasonable when compared with such judgment, under the facts and circumstances of the case, the court shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this subparagraph shall be paid only as a consequence of appropriations provided in advance.".

(b) Section 2412(d) of title 28, United States Code, is amended—

(1) in paragraph (2)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (2)(B), by inserting before the semicolon "or for purposes of subsection (d)(1)(D), a small entity as defined in section 601 of title 5";

(3) at the end of paragraph (2)(G), by striking "and";

(4) at the end of paragraph (2)(H), by striking the period and inserting "; and"; and

(5) at the end of paragraph (2), by adding the following new subparagraph:

"(I) 'demand' means the express demand of the United States which led to the adversary adjudication, but shall not include a recitation of the maximum statutory penalty (i) in the complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

5 USC 504 note.

SEC. 233. EFFECTIVE DATE.

The amendments made by sections 331 and 332 shall apply to civil actions and adversary adjudications commenced on or after the date of the enactment of this subtitle.

Subtitle D—Regulatory Flexibility Act Amendments

SEC. 241. REGULATORY FLEXIBILITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) SECTION 603.—Section 603(a) of title 5, United States Code, is amended—

(A) by inserting after "proposed rule", the phrase ", or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States"; and

(B) by inserting at the end of the subsection, the following new sentence: "In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretative rules impose on small entities a collection of information requirement.".

(2) SECTION 601.—Section 601 of title 5, United States Code, is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by adding at the end the following:

"(7) the term 'collection of information'—

"(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

"(B) shall not include a collection of information described under section 3518(c)(1) of title 44, United States Code.

"(8) RECORDKEEPING REQUIREMENT.—The term 'recordkeeping requirement' means a requirement imposed by an agency on persons to maintain specified records.".

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue

laws of the United States as described in section 603(a), the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and objectives of, the rule;

"(2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

"(3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

"(4) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

"(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."; and

(2) in subsection (b), by striking "at the time" and all that follows and inserting "such analysis or a summary thereof.".

SEC. 242. JUDICIAL REVIEW.

Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(2) Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to an action for judicial review under this section.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of

this chapter, an action for judicial review under this section shall be filed not later than—

"(i) one year after the date the analysis is made available to the public, or

"(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

"(4) In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this chapter and chapter 7, including, but not limited to—

"(A) remanding the rule to the agency, and

"(B) deferring the enforcement of the rule against small entities unless the court finds that continued enforcement of the rule is in the public interest.

"(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

"(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

"(c) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

"(d) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.".

SEC. 243. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

Federal Register, publication.

(b) Section 612 of title 5, United States Code, is amended—

(1) in subsection (a), by striking "the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives".

(2) in subsection (b), by striking "his views with respect to the" and inserting in lieu thereof, "his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the".

SEC. 244. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) SMALL BUSINESS OUTREACH AND INTERAGENCY COORDINATION.— Section 609 of title 5, United States Code, is amended—

(1) before "techniques," by inserting "the reasonable use of";

(2) in paragraph (4), after "entities" by inserting "including soliciting and receiving comments over computer networks";

(3) by designating the current text as subsection (a); and

(4) by adding the following:

"(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

"(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

"(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

"(3) the agency shall convene a review panel for such rule consisting wholly of full time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

"(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

"(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and

"(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

"(c) An agency may in its discretion apply subsection (b) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

"(d) For purposes of this section, the term 'covered agency' means the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor.

"(e) The Chief Counsel for Advocacy, in consultation with the individuals identified in subsection (b)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of subsections (b)(3), (b)(4), and (b)(5) by including in the rulemaking

record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:

"(1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration.

"(2) Special circumstances requiring prompt issuance of the rule.

"(3) Whether the requirements of subsection (b) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.".

5 USC 609 note.

(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each covered agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

5 USC 601 note.

SEC. 245. EFFECTIVE DATE.

This subtitle shall become effective on the expiration of 90 days after the date of enactment of this subtitle, except that such amendments shall not apply to interpretative rules for which a notice of proposed rulemaking was published prior to the date of enactment.

Subtitle E—Congressional Review

SEC. 251. CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.

Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"§ 801. Congressional review

Reports.

"(a)(1)(A) Before a rule can take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

"(i) a copy of the rule;

"(ii) a concise general statement relating to the rule, including whether it is a major rule; and

"(iii) the proposed effective date of the rule.

"(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

"(i) a complete copy of the cost-benefit analysis of the rule, if any;

"(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

"(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

"(iv) any other relevant information or requirements under any other Act and any relevant Executive orders.

"(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the chairman and ranking member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

"(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction in each House of the Congress by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B). Reports.

"(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

"(3) A major rule relating to a report submitted under paragraph (1) shall take effect on the latest of— Effective dates.

"(A) the later of the date occurring 60 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register, if so published; Federal Register, publication.

"(B) if the Congress passes a joint resolution of disapproval described in section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

"(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1). Effective date.

"(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802. Effective dates.

"(b)(1) A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule.

"(2) A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a

rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of subsection (a)(3) may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws;

"(C) necessary for national security; or

"(D) issued pursuant to any statute implementing an international trade agreement.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

"(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

"(A) in the case of the Senate, 60 session days, or

"(B) in the case of the House of Representatives, 60 legislative days,

before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 802 shall apply to such rule in the succeeding session of Congress.

"(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

Federal Register, publication.

"(i) such rule were published in the Federal Register (as a rule that shall take effect) on—

"(I) in the case of the Senate, the 15th session day, or

"(II) in the case of the House of Representatives, the 15th legislative day,

after the succeeding session of Congress first convenes; and

"(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a rule can take effect.

"(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).

Effective date.

"(e)(1) For purposes of this subsection, section 802 shall also apply to any major rule promulgated between March 1, 1996, and the date of the enactment of this chapter.

"(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

"(A) such rule were published in the Federal Register on the date of enactment of this chapter; and Federal Register, publication.

"(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

"(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under section 802 respecting a rule, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§ 802. Congressional disapproval procedure

"(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in).

"(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

"(2) For purposes of this section, the term 'submission or publication date' means the later of the date on which—

"(A) the Congress receives the report submitted under section 801(a)(1); or

"(B) the rule is published in the Federal Register, if so published. Federal Register, publication.

"(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

"(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed

to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

"(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(e) In the Senate the procedure specified in subsection (c) or (d) shall not apply to the consideration of a joint resolution respecting a rule—

"(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

"(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

"(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

"(1) The joint resolution of the other House shall not be referred to a committee.

"(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(g) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of enactment of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§ 804. Definitions

"For purposes of this chapter—

"(1) The term 'Federal agency' means any agency as that term is defined in section 551(1).

"(2) The term 'major rule' means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

"(A) an annual effect on the economy of $100,000,000 or more;

"(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

"(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

The term does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

"(3) The term 'rule' has the meaning given such term in section 551, except that such term does not include—

"(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

"(B) any rule relating to agency management or personnel; or

"(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

"§ 805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§ 806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held

invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§ 807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

"§ 808. Effective date of certain rules

"Notwithstanding section 801—

"(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping, or

"(2) any rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,

shall take effect at such time as the Federal agency promulgating the rule determines.".

SEC. 252. EFFECTIVE DATE.

5 USC 801 note.

The amendment made by section 351 shall take effect on the date of enactment of this Act.

SEC. 253. TECHNICAL AMENDMENT.

The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking ..... **801".**

TITLE III—PUBLIC DEBT LIMIT

SEC. 301. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar limitation contained in such subsection and inserting "$5,500,000,000,000".

Approved March 29, 1996.

LEGISLATIVE HISTORY—H.R. 3136 (S. 942):

CONGRESSIONAL RECORD, Vol. 142 (1996):
Mar. 15, 19, S. 942 considered and passed Senate.
Mar. 28, H.R. 3136 considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):
Mar. 29, Presidential statement.

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