

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3136

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IN THE SENATE OF THE UNITED STATES

MARCH 28, 1996

Received

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## 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.

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 “Contract with America  
 5 Advancement Act of 1996”.

6 **TITLE I—SOCIAL SECURITY**  
 7 **EARNINGS LIMITATION**  
 8 **AMENDMENTS**

9 **SEC. 101. SHORT TITLE OF TITLE.**

10 This title may be cited as the “Senior Citizens’ Right  
 11 to Work Act of 1996”.

12 **SEC. 102. INCREASES IN MONTHLY EXEMPT AMOUNT FOR**  
 13 **PURPOSES OF THE SOCIAL SECURITY EARN-**  
 14 **INGS LIMIT.**

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

19 “(D) Notwithstanding any other provision of  
 20 this subsection, the exempt amount which is applica-  
 21 ble to an individual who has attained retirement age  
 22 (as defined in section 216(l)) before the close of the  
 23 taxable year involved shall be—

1           “(i) for each month of any taxable year  
2 ending after 1995 and before 1997,  
3 \$1,041.66<sup>2</sup>/<sub>3</sub>,

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

6           “(iii) for each month of any taxable year  
7 ending after 1997 and before 1999,  
8 \$1,208.33<sup>1</sup>/<sub>3</sub>,

9           “(iv) for each month of any taxable year  
10 ending after 1998 and before 2000,  
11 \$1,291.66<sup>2</sup>/<sub>3</sub>,

12           “(v) for each month of any taxable year  
13 ending after 1999 and before 2001,  
14 \$1,416.66<sup>2</sup>/<sub>3</sub>,

15           “(vi) for each month of any taxable year  
16 ending after 2000 and before 2002,  
17 \$2,083.33<sup>1</sup>/<sub>3</sub>, and

18           “(vii) for each month of any taxable year  
19 ending after 2001 and before 2003,  
20 \$2,500.00.”.

21 (b) CONFORMING AMENDMENTS.—

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

24           (A) by striking “the taxable year ending  
25 after 1993 and before 1995” and inserting “the

1 taxable year ending after 2001 and before 2003  
2 (with respect to individuals described in sub-  
3 paragraph (D)) or the taxable year ending after  
4 1993 and before 1995 (with respect to other in-  
5 dividuals)”; and

6 (B) in subclause (II), by striking “for  
7 1992” and inserting “for 2000 (with respect to  
8 individuals described in subparagraph (D)) or  
9 1992 (with respect to other individuals)”.

10 (2) The second sentence of section 223(d)(4)(A)  
11 of such Act (42 U.S.C. 423(d)(4)(A)) is amended by  
12 striking “the exempt amount under section 203(f)(8)  
13 which is applicable to individuals described in sub-  
14 paragraph (D) thereof” and inserting the following:  
15 “an amount equal to the exempt amount which  
16 would be applicable under section 203(f)(8), to indi-  
17 viduals described in subparagraph (D) thereof, if  
18 section 102 of the Senior Citizens’ Right to Work  
19 Act of 1996 had not been enacted”.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply with respect to taxable years end-  
22 ing after 1995.

23 **SEC. 103. CONTINUING DISABILITY REVIEWS.**

24 (a) AUTHORIZATION FOR APPROPRIATIONS FOR CON-  
25 TINUING DISABILITY REVIEWS.—Section 201(g)(1)(A) of

1 the Social Security Act (42 U.S.C. 401(g)(1)(A)) is  
2 amended by adding at the end the following: “Of the  
3 amounts authorized to be made available out of the Fed-  
4 eral Old-Age and Survivors Insurance Trust Fund and the  
5 Federal Disability Insurance Trust Fund under the pre-  
6 ceding sentence, there are hereby authorized to be made  
7 available from either or both of such Trust Funds for con-  
8 tinuing disability reviews—

9           “(i) for fiscal year 1996, \$260,000,000;

10           “(ii) for fiscal year 1997, \$360,000,000;

11           “(iii) for fiscal year 1998, \$570,000,000;

12           “(iv) for fiscal year 1999, \$720,000,000;

13           “(v) for fiscal year 2000, \$720,000,000;

14           “(vi) for fiscal year 2001, \$720,000,000; and

15           “(viii) for fiscal year 2002, \$720,000,000.

16 For purposes of this subparagraph, the term ‘continuing  
17 disability review’ means a review conducted pursuant to  
18 section 221(i) and a review or disability eligibility redeter-  
19 mination conducted to determine the continuing disability  
20 and eligibility of a recipient of benefits under the supple-  
21 mental security income program under title XVI, including  
22 any review or redetermination conducted pursuant to sec-  
23 tion 207 or 208 of the Social Security Independence and  
24 Program Improvements Act of 1994 (Public Law 103-  
25 296).”.

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

5 “(H) CONTINUING DISABILITY REVIEWS.—

6 (i) Whenever a bill or joint resolution making  
7 appropriations for fiscal year 1996, 1997, 1998,  
8 1999, 2000, 2001, or 2002 is enacted that  
9 specifies an amount for continuing disability re-  
10 views under the heading ‘Limitation on Admin-  
11 istrative Expenses’ for the Social Security Ad-  
12 ministration, the adjustments for that fiscal  
13 year shall be the additional new budget author-  
14 ity provided in that Act for such reviews for  
15 that fiscal year and the additional outlays flow-  
16 ing from such amounts, but shall not exceed—

17 “(I) for fiscal year 1996, \$15,000,000  
18 in additional new budget authority and  
19 \$60,000,000 in additional outlays;

20 “(II) for fiscal year 1997,  
21 \$25,000,000 in additional new budget au-  
22 thority and \$160,000,000 in additional  
23 outlays;

24 “(III) for fiscal year 1998,  
25 \$145,000,000 in additional new budget au-

1           thority and \$370,000,000 in additional  
2           outlays;

3           “(IV) for fiscal year 1999,  
4           \$280,000,000 in additional new budget au-  
5           thority and \$520,000,000 in additional  
6           outlays;

7           “(V) for fiscal year 2000,  
8           \$317,500,000 in additional new budget au-  
9           thority and \$520,000,000 in additional  
10          outlays;

11          “(VI) for fiscal year 2001,  
12          \$317,500,000 in additional new budget au-  
13          thority and \$520,000,000 in additional  
14          outlays; and

15          “(VII) for fiscal year 2002,  
16          \$317,500,000 in additional new budget au-  
17          thority and \$520,000,000 in additional  
18          outlays.

19          “(ii) As used in this subparagraph—

20                 “(I) the term ‘continuing disability re-  
21                 views’ has the meaning given such term by  
22                 section 201(g)(1)(A) of the Social Security  
23                 Act;

24                 “(II) the term ‘additional new budget  
25                 authority’ means new budget authority

1 provided for a fiscal year, in excess of  
2 \$100,000,000, for the Supplemental Secu-  
3 rity Income program and specified to pay  
4 for the costs of continuing disability re-  
5 views attributable to the Supplemental Se-  
6 curity Income program; and

7 “(III) the term ‘additional outlays’  
8 means outlays, in excess of \$200,000,000  
9 in a fiscal year, flowing from the amounts  
10 specified for continuing disability reviews  
11 under the heading ‘Limitation on Adminis-  
12 trative Expenses’ for the Social Security  
13 Administration, including outlays in that  
14 fiscal year flowing from amounts specified  
15 in Acts enacted for prior fiscal years (but  
16 not before 1996).”.

17 (c) BUDGET ALLOCATION ADJUSTMENT BY BUDGET  
18 COMMITTEE.—Section 606 of the Congressional Budget  
19 and Impoundment Control Act of 1974 is amended by  
20 adding the following new subsection:

21 “(e) CONTINUING DISABILITY REVIEW ADJUST-  
22 MENT.—

23 “(1) IN GENERAL.—(A) For fiscal year 1996,  
24 upon the enactment of the Contract with America  
25 Advancement Act of 1996, the Chairmen of the

1 Committees on the Budget of the Senate and House  
2 of Representatives shall make the adjustments re-  
3 ferred to in subparagraph (C) to reflect \$15,000,000  
4 in additional new budget authority and \$60,000,000  
5 in additional outlays for continuing disability reviews  
6 (as defined in section 201(g)(1)(A) of the Social Se-  
7 curity Act).

8 “(B) When the Committee on Appropriations  
9 reports an appropriations measure for fiscal year  
10 1997, 1998, 1999, 2000, 2001, or 2002 that speci-  
11 fies an amount for continuing disability reviews  
12 under the heading ‘Limitation on Administrative Ex-  
13 penses’ for the Social Security Administration, or  
14 when a conference committee submits a conference  
15 report thereon, the Chairman of the Committee on  
16 the Budget of the Senate or House of Representa-  
17 tives (whichever is appropriate) shall make the ad-  
18 justments referred to in subparagraph (C) to reflect  
19 the additional new budget authority for continuing  
20 disability reviews provided in that measure or con-  
21 ference report and the additional outlays flowing  
22 from such amounts for continuing disability reviews.

23 “(C) The adjustments referred to in this sub-  
24 paragraph consist of adjustments to—

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

4           “(ii) the allocations to the Committees on  
5           Appropriations of the Senate and the House of  
6           Representatives for that fiscal year under sec-  
7           tions 302(a) and 602(a); and

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

11          “(D) The adjustments under this paragraph for  
12          any fiscal year shall not exceed the levels set forth  
13          in section 251(b)(2)(H) of the Balanced Budget and  
14          Emergency Deficit Control Act of 1985 for that fis-  
15          cal year. The adjusted discretionary spending limits,  
16          allocations, and aggregates under this paragraph  
17          shall be considered the appropriate limits, alloca-  
18          tions, and aggregates for purposes of congressional  
19          enforcement of this Act and concurrent budget reso-  
20          lutions under this Act.

21          “(2) REPORTING REVISED SUBALLOCATIONS.—  
22          Following the adjustments made under paragraph  
23          (1), the Committees on Appropriations of the Senate  
24          and the House of Representatives may report appro-  
25          priately revised suballocations pursuant to sections

1 302(b) and 602(b) of this Act to carry out this sub-  
2 section.

3 “(3) DEFINITIONS.—As used in this section,  
4 the terms ‘continuing disability reviews’, ‘additional  
5 new budget authority’, and ‘additional outlays’ shall  
6 have the same meanings as provided in section  
7 251(b)(2)(H)(ii) of the Balanced Budget and Emer-  
8 gency Deficit Control Act of 1985.”.

9 (d) USE OF FUNDS AND REPORTS.—

10 (1) IN GENERAL.—The Commissioner of Social  
11 Security shall ensure that funds made available for  
12 continuing disability reviews (as defined in section  
13 201(g)(1)(A) of the Social Security Act) are used, to  
14 the greatest extent practicable, to maximize the com-  
15 bined savings in the old-age, survivors, and disability  
16 insurance, supplemental security income, medicare,  
17 and medicaid programs.

18 (2) REPORT.—The Commissioner of Social Se-  
19 curity shall provide annually (at the conclusion of  
20 each of the fiscal years 1996 through 2002) to the  
21 Congress a report on continuing disability reviews  
22 which includes—

23 (A) the amount spent on continuing dis-  
24 ability reviews in the fiscal year covered by the

1 report, and the number of reviews conducted,  
2 by category of review;

3 (B) the results of the continuing disability  
4 reviews in terms of cessations of benefits or de-  
5 terminations of continuing eligibility, by pro-  
6 gram; and

7 (C) the estimated savings over the short-,  
8 medium-, and long-term to the old-age, survi-  
9 vors, and disability insurance, supplemental se-  
10 curity income, medicare, and medicaid pro-  
11 grams from continuing disability reviews which  
12 result in cessations of benefits and the esti-  
13 mated present value of such savings.

14 (e) OFFICE OF CHIEF ACTUARY IN THE SOCIAL SE-  
15 CURITY ADMINISTRATION.—

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

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

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

22 “Chief Actuary

23 “(c)(1) There shall be in the Administration a Chief  
24 Actuary, who shall be appointed by, and in direct line of  
25 authority to, the Commissioner. The Chief Actuary shall

1 be appointed from individuals who have demonstrated, by  
 2 their education and experience, superior expertise in the  
 3 actuarial sciences. The Chief Actuary shall serve as the  
 4 chief actuarial officer of the Administration, and shall ex-  
 5 ercise such duties as are appropriate for the office of the  
 6 Chief Actuary and in accordance with professional stand-  
 7 ards of actuarial independence. The Chief Actuary may  
 8 be removed only for cause.

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

12 (2) EFFECTIVE DATE OF SUBSECTION.—The  
 13 amendments made by this subsection shall take ef-  
 14 fect on the date of the enactment of this Act.

15 **SEC. 104. ENTITLEMENT OF STEPCHILDREN TO CHILD’S IN-**  
 16 **SURANCE BENEFITS BASED ON ACTUAL DE-**  
 17 **PENDENCY ON STEPPARENT SUPPORT.**

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

20 (1) IN GENERAL.—Section 202(d)(4) of the So-  
 21 cial Security Act (42 U.S.C. 402(d)(4)) is amended  
 22 by striking “was living with or”.

23 (2) EFFECTIVE DATE.—The amendment made  
 24 by paragraph (1) shall apply with respect to benefits  
 25 of individuals who become entitled to such benefits

1 for months after the third month following the  
2 month in which this Act is enacted.

3 (b) TERMINATION OF CHILD'S INSURANCE BENE-  
4 FITS BASED ON WORK RECORD OF STEPPARENT UPON  
5 NATURAL PARENT'S DIVORCE FROM STEPPARENT.—

6 (1) IN GENERAL.—Section 202(d)(1) of the So-  
7 cial Security Act (42 U.S.C. 402(d)(1)) is amend-  
8 ed—

9 (A) by striking “or” at the end of subpara-  
10 graph (F);

11 (B) by striking the period at the end of  
12 subparagraph (G) and inserting “; or”; and

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

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

20 (2) NOTIFICATION.—Section 202(d) of such Act  
21 (42 U.S.C. 402(d)) is amended by adding the follow-  
22 ing new paragraph:

23 “(10) For purposes of paragraph (1)(H)—



1 a contributing factor material to the Commissioner’s  
2 determination that the individual is disabled.”.

3 (2) REPRESENTATIVE PAYEE REQUIRE-  
4 MENTS.—

5 (A) Section 205(j)(1)(B) of such Act (42  
6 U.S.C. 405(j)(1)(B)) is amended to read as fol-  
7 lows:

8 “(B) In the case of an individual entitled to benefits  
9 based on disability, the payment of such benefits shall be  
10 made to a representative payee if the Commissioner of So-  
11 cial Security determines that such payment would serve  
12 the interest of the individual because the individual also  
13 has an alcoholism or drug addiction condition (as deter-  
14 mined by the Commissioner) and the individual is incapa-  
15 ble of managing such benefits.”.

16 (B) Section 205(j)(2)(C)(v) of such Act  
17 (42 U.S.C. 405(j)(2)(C)(v)) is amended by  
18 striking “entitled to benefits” and all that fol-  
19 lows through “under a disability” and inserting  
20 “described in paragraph (1)(B)”.

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

1 (D) Section 205(j)(4)(A)(i)(II) of such Act  
2 (42 U.S.C. 405(j)(4)(A)(ii)(II)) is amended by  
3 striking “entitled to benefits” and all that fol-  
4 lows through “under a disability” and inserting  
5 “described in paragraph (1)(B)”.

6 (3) TREATMENT REFERRALS FOR INDIVIDUALS  
7 WITH AN ALCOHOLISM OR DRUG ADDICTION CONDI-  
8 TION.—Section 222 of such Act (42 U.S.C. 422) is  
9 amended by adding at the end the following new  
10 subsection:

11 “Treatment Referrals for Individuals with an Alcoholism  
12 or Drug Addiction Condition

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

21 (4) CONFORMING AMENDMENT.—Subsection (c)  
22 of section 225 of such Act (42 U.S.C. 425(c)) is re-  
23 pealed.

24 (5) EFFECTIVE DATES.—

1           (A) The amendments made by paragraphs  
2           (1) and (4) shall apply to any individual who  
3           applies for, or whose claim is finally adjudicated  
4           by the Commissioner of Social Security with re-  
5           spect to, benefits under title II of the Social Se-  
6           curity Act based on disability on or after the  
7           date of the enactment of this Act, and, in the  
8           case of any individual who has applied for, and  
9           whose claim has been finally adjudicated by the  
10          Commissioner with respect to, such benefits be-  
11          fore such date of enactment, such amendments  
12          shall apply only with respect to such benefits  
13          for months beginning on or after January 1,  
14          1997.

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

20          (C) Within 90 days after the date of the  
21          enactment of this Act, the Commissioner of So-  
22          cial Security shall notify each individual who is  
23          entitled to monthly insurance benefits under  
24          title II of the Social Security Act based on dis-  
25          ability for the month in which this Act is en-

1           acted and whose entitlement to such benefits  
2           would terminate by reason of the amendments  
3           made by this subsection. If such an individual  
4           reapplies for benefits under title II of such Act  
5           (as amended by this Act) based on disability  
6           within 120 days after the date of the enactment  
7           of this Act, the Commissioner of Social Security  
8           shall, not later than January 1, 1997, complete  
9           the entitlement redetermination (including a  
10          new medical determination) with respect to  
11          such individual pursuant to the procedures of  
12          such title.

13          (b) AMENDMENTS RELATING TO SSI BENEFITS.—

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

17                 “(I) Notwithstanding subparagraph (A), an individ-  
18          ual shall not be considered to be disabled for purposes of  
19          this title if alcoholism or drug addiction would (but for  
20          this subparagraph) be a contributing factor material to  
21          the Commissioner’s determination that the individual is  
22          disabled.”.

23                 (2) REPRESENTATIVE PAYEE REQUIRE-  
24          MENTS.—

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

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

12          (B) Section 1631(a)(2)(B)(vii) of such Act  
13          (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by  
14          striking “eligible for benefits” and all that fol-  
15          lows through “is disabled” and inserting “de-  
16          scribed in subparagraph (A)(ii)(II)”.

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

22          (D) Section 1631(a)(2)(D)(i)(II) of such  
23          Act (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amend-  
24          ed by striking “eligible for benefits” and all

1           that follows through “is disabled” and inserting  
2           “described in subparagraph (A)(ii)(II)”.

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

8           “TREATMENT REFERRALS FOR INDIVIDUALS WITH AN  
9           ALCOHOLISM OR DRUG ADDICTION CONDITION  
10          “SEC. 1636. In the case of any individual whose bene-  
11       fits under this title are paid to a representative payee pur-  
12       suant to section 1631(a)(2)(A)(ii)(II), the Commissioner  
13       of Social Security shall refer such individual to the appro-  
14       priate State agency administering the State plan for sub-  
15       stance abuse treatment services approved under subpart  
16       II of part B of title XIX of the Public Health Service Act  
17       (42 U.S.C. 300x–21 et seq.).”.

18           (4) CONFORMING AMENDMENTS.—

19           (A) Section 1611(e) of such Act (42  
20           U.S.C. 1382(e)) is amended by striking para-  
21           graph (3).

22           (B) Section 1634 of such Act (42 U.S.C.  
23           1383c) is amended by striking subsection (e).

24           (5) EFFECTIVE DATES.—

25           (A) The amendments made by paragraphs  
26           (1) and (4) shall apply to any individual who

1 applies for, or whose claim is finally adjudicated  
2 by the Commissioner of Social Security with re-  
3 spect to, supplemental security income benefits  
4 under title XVI of the Social Security Act based  
5 on disability on or after the date of the enact-  
6 ment of this Act, and, in the case of any indi-  
7 vidual who has applied for, and whose claim has  
8 been finally adjudicated by the Commissioner  
9 with respect to, such benefits before such date  
10 of enactment, such amendments shall apply  
11 only with respect to such benefits for months  
12 beginning on or after January 1, 1997.

13 (B) The amendments made by paragraphs  
14 (2) and (3) shall apply with respect to supple-  
15 mental security income benefits under title XVI  
16 of the Social Security Act for which applica-  
17 tions are filed after the third month following  
18 the month in which this Act is enacted.

19 (C) Within 90 days after the date of the  
20 enactment of this Act, the Commissioner of So-  
21 cial Security shall notify each individual who is  
22 eligible for supplemental security income bene-  
23 fits under title XVI of the Social Security Act  
24 for the month in which this Act is enacted and  
25 whose eligibility for such benefits would termi-

1           nate by reason of the amendments made by this  
2           subsection. If such an individual reapplies for  
3           supplemental security income benefits under  
4           title XVI of such Act (as amended by this Act)  
5           within 120 days after the date of the enactment  
6           of this Act, the Commissioner of Social Security  
7           shall, not later than January 1, 1997, complete  
8           the eligibility redetermination (including a new  
9           medical determination) with respect to such in-  
10          dividual pursuant to the procedures of such  
11          title.

12           (D) For purposes of this paragraph, the  
13          phrase “supplemental security income benefits  
14          under title XVI of the Social Security Act” in-  
15          cludes supplementary payments pursuant to an  
16          agreement for Federal administration under  
17          section 1616(a) of the Social Security Act and  
18          payments pursuant to an agreement entered  
19          into under section 212(b) of Public Law 93–66.

20          (c) CONFORMING AMENDMENT.—Section 201(c) of  
21          the Social Security Independence and Program Improve-  
22          ments Act of 1994 (42 U.S.C. 425 note) is repealed.

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

1           (1) IN GENERAL.—Out of any money in the  
2 Treasury not otherwise appropriated, there are here-  
3 by appropriated to supplement State and Tribal pro-  
4 grams funded under section 1933 of the Public  
5 Health Service Act (42 U.S.C. 300x-33),  
6 \$50,000,000 for each of the fiscal years 1997 and  
7 1998.

8           (2) ADDITIONAL FUNDS.—Amounts appro-  
9 priated under paragraph (1) shall be in addition to  
10 any funds otherwise appropriated for allotments  
11 under section 1933 of the Public Health Service Act  
12 (42 U.S.C. 300x-33) and shall be allocated pursuant  
13 to such section 1933.

14           (3) USE OF FUNDS.—A State or Tribal govern-  
15 ment receiving an allotment under this subsection  
16 shall consider as priorities, for purposes of expend-  
17 ing funds allotted under this subsection, activities  
18 relating to the treatment of the abuse of alcohol and  
19 other drugs.

20 **SEC. 106. PILOT STUDY OF EFFICACY OF PROVIDING INDI-**  
21 **VIDUALIZED INFORMATION TO RECIPIENTS**  
22 **OF OLD-AGE AND SURVIVORS INSURANCE**  
23 **BENEFITS.**

24           (a) IN GENERAL.—During a 2-year period beginning  
25 as soon as practicable in 1996, the Commissioner of Social

1 Security shall conduct a pilot study of the efficacy of pro-  
2 viding certain individualized information to recipients of  
3 monthly insurance benefits under section 202 of the Social  
4 Security Act, designed to promote better understanding  
5 of their contributions and benefits under the social secu-  
6 rity system. The study shall involve solely beneficiaries  
7 whose entitlement to such benefits first occurred in or  
8 after 1984 and who have remained entitled to such bene-  
9 fits for a continuous period of not less than 5 years. The  
10 number of such recipients involved in the study shall be  
11 of sufficient size to generate a statistically valid sample  
12 for purposes of the study, but shall not exceed 600,000  
13 beneficiaries.

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

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

24 (2) an estimate of the aggregate of the em-  
25 ployee and self-employment contributions, and the

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

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

14 (c) INCLUSION WITH MATTER OTHERWISE DISTRIB-  
15 UTED TO BENEFICIARIES.—The Commissioner shall en-  
16 sure that reports provided pursuant to this section are,  
17 to the maximum extent practicable, included with other  
18 reports currently provided to beneficiaries on an annual  
19 basis.

20 (d) REPORT TO THE CONGRESS.—The Commissioner  
21 shall report to each House of the Congress regarding the  
22 results of the pilot study conducted pursuant to this sec-  
23 tion not later than 60 days after the completion of such  
24 study.

1 **SEC. 107. PROTECTION OF SOCIAL SECURITY AND MEDI-**  
2 **CARE TRUST FUNDS.**

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

6 “PROTECTION OF SOCIAL SECURITY AND MEDICARE  
7 TRUST FUNDS

8 “SEC. 1145. (a) IN GENERAL.—No officer or em-  
9 ployee of the United States shall—

10 “(1) delay the deposit of any amount into (or  
11 delay the credit of any amount to) any Federal fund  
12 or otherwise vary from the normal terms, proce-  
13 dures, or timing for making such deposits or credits,

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

16 “(3) redeem prior to maturity amounts in any  
17 Federal fund which are invested in public debt obli-  
18 gations for any purpose other than the payment of  
19 benefits or administrative expenses from such Fed-  
20 eral fund.

21 “(b) PUBLIC DEBT OBLIGATION.—For purposes of  
22 this section, the term ‘public debt obligation’ means any  
23 obligation subject to the public debt limit established  
24 under section 3101 of title 31, United States Code.

25 “(c) FEDERAL FUND.—For purposes of this section,  
26 the term ‘Federal fund’ means—

1           “(1) the Federal Old-Age and Survivors Insur-  
2           ance Trust Fund;

3           “(2) the Federal Disability Insurance Trust  
4           Fund;

5           “(3) the Federal Hospital Insurance Trust  
6           Fund; and

7           “(4) the Federal Supplementary Medical Insur-  
8           ance Trust Fund.”.

9           (b) EFFECTIVE DATE.—The amendment made by  
10          this section shall take effect on the date of the enactment  
11          of this Act.

12       **SEC. 108. PROFESSIONAL STAFF FOR THE SOCIAL SECU-**  
13                               **RITY ADVISORY BOARD.**

14           Section 703(i) of the Social Security Act (42  
15          U.S.C. 903(i)) is amended in the first sentence by insert-  
16          ing after “Staff Director” the following: “, and three pro-  
17          fessional staff members one of whom shall be appointed  
18          from among individuals approved by the members of the  
19          Board who are not members of the political party rep-  
20          resented by the majority of the Board,”.

21                               **TITLE II—SMALL BUSINESS**  
22                               **REGULATORY FAIRNESS**

23       **SEC. 201. SHORT TITLE.**

24           This title may be cited as the “Small Business Regu-  
25          latory Enforcement Fairness Act of 1996”.

1 **SEC. 202. FINDINGS.**

2 Congress finds that—

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

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

7 (3) fundamental changes that are needed in the  
8 regulatory and enforcement culture of Federal agen-  
9 cies to make agencies more responsive to small busi-  
10 ness can be made without compromising the statu-  
11 tory missions of the agencies;

12 (4) three of the top recommendations of the  
13 1995 White House Conference on Small Business in-  
14 volve reforms to the way government regulations are  
15 developed and enforced, and reductions in govern-  
16 ment paperwork requirements;

17 (5) the requirements of chapter 6 of title 5,  
18 United States Code, have too often been ignored by  
19 government agencies, resulting in greater regulatory  
20 burdens on small entities than necessitated by stat-  
21 ute; and

22 (6) small entities should be given the oppor-  
23 tunity to seek judicial review of agency actions re-  
24 quired by chapter 6 of title 5, United States Code.

25 **SEC. 203. PURPOSES.**

26 The purposes of this title are—

1           (1) to implement certain recommendations of  
2           the 1995 White House Conference on Small Busi-  
3           ness regarding the development and enforcement of  
4           Federal regulations;

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

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

9           (4) to simplify the language of Federal regula-  
10          tions affecting small businesses;

11          (5) to develop more accessible sources of infor-  
12          mation on regulatory and reporting requirements for  
13          small businesses;

14          (6) to create a more cooperative regulatory en-  
15          vironment among agencies and small businesses that  
16          is less punitive and more solution-oriented; and

17          (7) to make Federal regulators more account-  
18          able for their enforcement actions by providing small  
19          entities with a meaningful opportunity for redress of  
20          excessive enforcement activities.

## 21 **Subtitle A—Regulatory Compliance** 22 **Simplification**

### 23 **SEC. 211. DEFINITIONS.**

24          For purposes of this subtitle—

1           (1) the terms “rule” and “small entity” have  
2           the same meanings as in section 601 of title 5, Unit-  
3           ed States Code;

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

6           (3) the term “small entity compliance guide”  
7           means a document designated as such by an agency.

8   **SEC. 212. COMPLIANCE GUIDES.**

9           (a) COMPLIANCE GUIDE.—For each rule or group of  
10          related rules for which an agency is required to prepare  
11          a final regulatory flexibility analysis under section 604 of  
12          title 5, United States Code, the agency shall publish one  
13          or more guides to assist small entities in complying with  
14          the rule, and shall designate such publications as “small  
15          entity compliance guides”. The guides shall explain the ac-  
16          tions a small entity is required to take to comply with a  
17          rule or group of rules. The agency shall, in its sole discre-  
18          tion, taking into account the subject matter of the rule  
19          and the language of relevant statutes, ensure that the  
20          guide is written using sufficiently plain language likely to  
21          be understood by affected small entities. Agencies may  
22          prepare separate guides covering groups or classes of simi-  
23          larly affected small entities, and may cooperate with asso-  
24          ciations of small entities to develop and distribute such  
25          guides.

1 (b) COMPREHENSIVE SOURCE OF INFORMATION.—  
2 Agencies shall cooperate to make available to small enti-  
3 ties through comprehensive sources of information, the  
4 small entity compliance guides and all other available in-  
5 formation on statutory and regulatory requirements af-  
6 fecting small entities.

7 (c) LIMITATION ON JUDICIAL REVIEW.—An agency’s  
8 small entity compliance guide shall not be subject to judi-  
9 cial review, except that in any civil or administrative ac-  
10 tion against a small entity for a violation occurring after  
11 the effective date of this section, the content of the small  
12 entity compliance guide may be considered as evidence of  
13 the reasonableness or appropriateness of any proposed  
14 fines, penalties or damages.

15 **SEC. 213. INFORMAL SMALL ENTITY GUIDANCE.**

16 (a) GENERAL.—Whenever appropriate in the interest  
17 of administering statutes and regulations within the juris-  
18 diction of an agency which regulates small entities, it shall  
19 be the practice of the agency to answer inquiries by small  
20 entities concerning information on, and advice about, com-  
21 pliance with such statutes and regulations, interpreting  
22 and applying the law to specific sets of facts supplied by  
23 the small entity. In any civil or administrative action  
24 against a small entity, guidance given by an agency apply-  
25 ing the law to facts provided by the small entity may be

1 considered as evidence of the reasonableness or appro-  
2 priateness of any proposed fines, penalties or damages  
3 sought against such small entity.

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

9 (c) REPORTING.—Each agency regulating the activi-  
10 ties of small business shall report to the Committee on  
11 Small Business and Committee on Governmental Affairs  
12 of the Senate and the Committee on Small Business and  
13 Committee on the Judiciary of the House of Representa-  
14 tives no later than 2 years after the date of the enactment  
15 of this section on the scope of the agency’s program, the  
16 number of small entities using the program, and the  
17 achievements of the program to assist small entity compli-  
18 ance with agency regulations.

19 **SEC. 214. SERVICES OF SMALL BUSINESS DEVELOPMENT**  
20 **CENTERS.**

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

23 (1) in subparagraph (O), by striking “and” at  
24 the end;

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

3           (3) by inserting after subparagraph (P) the fol-  
4           lowing new subparagraphs:

5                   “(Q) providing information to small busi-  
6                   ness concerns regarding compliance with regu-  
7                   latory requirements; and

8                   “(R) developing informational publications,  
9                   establishing resource centers of reference mate-  
10                  rials, and distributing compliance guides pub-  
11                  lished under section 312(a) of the Small Busi-  
12                  ness Regulatory Enforcement Fairness Act of  
13                  1996.”.

14          (b) Nothing in this Act in any way affects or limits  
15          the ability of other technical assistance or extension pro-  
16          grams to perform or continue to perform services related  
17          to compliance assistance.

18          **SEC. 215. COOPERATION ON GUIDANCE.**

19          Agencies may, to the extent resources are available  
20          and where appropriate, in cooperation with the states, de-  
21          velop guides that fully integrate requirements of both Fed-  
22          eral and state regulations where regulations within an  
23          agency’s area of interest at the Federal and state levels  
24          impact small entities. Where regulations vary among the

1 states, separate guides may be created for separate states  
2 in cooperation with State agencies.

3 **SEC. 216. EFFECTIVE DATE.**

4 This subtitle and the amendments made by this sub-  
5 title shall take effect on the expiration of 90 days after  
6 the date of enactment of this subtitle.

7 **Subtitle B—Regulatory**  
8 **Enforcement Reforms**

9 **SEC. 221. DEFINITIONS.**

10 For purposes of this subtitle—

11 (1) the terms “rule” and “small entity” have  
12 the same meanings as in section 601 of title 5, Unit-  
13 ed States Code;

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

16 (3) the term “small entity compliance guide”  
17 means a document designated as such by an agency.

18 **SEC. 222. SMALL BUSINESS AND AGRICULTURE ENFORCE-**

19 **MENT OMBUDSMAN.**

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

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

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

1 **“SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.**

2 “(a) DEFINITIONS.—For purposes of this section, the  
3 term—

4 “(1) “Board” means a Regional Small Business  
5 Regulatory Fairness Board established under sub-  
6 section (c); and

7 “(2) “Ombudsman” means the Small Business  
8 and Agriculture Regulatory Enforcement Ombuds-  
9 man designated under subsection (b).

10 “(b) SBA ENFORCEMENT OMBUDSMAN.—

11 “(1) Not later than 180 days after the date of  
12 enactment of this section, the Administrator shall  
13 designate a Small Business and Agriculture Regu-  
14 latory Enforcement Ombudsman, who shall report  
15 directly to the Administrator, utilizing personnel of  
16 the Small Business Administration to the extent  
17 practicable. Other agencies shall assist the Ombuds-  
18 man and take actions as necessary to ensure compli-  
19 ance with the requirements of this section. Nothing  
20 in this section is intended to replace or diminish the  
21 activities of any Ombudsman or similar office in any  
22 other agency.

23 “(2) The Ombudsman shall—

24 “(A) work with each agency with regu-  
25 latory authority over small businesses to ensure  
26 that small business concerns that receive or are

1 subject to an audit, on-site inspection, compli-  
2 ance assistance effort, or other enforcement re-  
3 lated communication or contact by agency per-  
4 sonnel are provided with a means to comment  
5 on the enforcement activity conducted by such  
6 personnel;

7 “(B) establish means to receive comments  
8 from small business concerns regarding actions  
9 by agency employees conducting compliance or  
10 enforcement activities with respect to the small  
11 business concern, means to refer comments to  
12 the Inspector General of the affected agency in  
13 the appropriate circumstances, and otherwise  
14 seek to maintain the identity of the person and  
15 small business concern making such comments  
16 on a confidential basis to the same extent as  
17 employee identities are protected under section  
18 7 of the Inspector General Act of 1978 (5  
19 U.S.C.App.);

20 “(C) based on substantiated comments re-  
21 ceived from small business concerns and the  
22 Boards, annually report to Congress and af-  
23 fected agencies evaluating the enforcement ac-  
24 tivities of agency personnel including a rating of  
25 the responsiveness to small business of the var-

1           ious regional and program offices of each agen-  
2           cy;

3           “(D) coordinate and report annually on the  
4           activities, findings and recommendations of the  
5           Boards to the Administrator and to the heads  
6           of affected agencies; and

7           “(E) provide the affected agency with an  
8           opportunity to comment on draft reports pre-  
9           pared under subparagraph (C), and include a  
10          section of the final report in which the affected  
11          agency may make such comments as are not  
12          addressed by the Ombudsman in revisions to  
13          the draft.

14          “(c) REGIONAL SMALL BUSINESS REGULATORY  
15          FAIRNESS BOARDS.—

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

21                 “(2) Each Board established under paragraph  
22                 (1) shall—

23                         “(A) meet at least annually to advise the  
24                         Ombudsman on matters of concern to small

1 businesses relating to the enforcement activities  
2 of agencies;

3 “(B) report to the Ombudsman on sub-  
4 stantiated instances of excessive enforcement  
5 actions of agencies against small business con-  
6 cerns including any findings or recommenda-  
7 tions of the Board as to agency enforcement  
8 policy or practice; and

9 “(C) prior to publication, provide comment  
10 on the annual report of the Ombudsman pre-  
11 pared under subsection (b).

12 “(3) Each Board shall consist of five members,  
13 who are owners, operators, or officers of small busi-  
14 ness concerns, appointed by the Administrator, after  
15 receiving the recommendations of the chair and  
16 ranking minority member of the Committees on  
17 Small Business of the House of Representatives and  
18 the Senate. Not more than three of the Board mem-  
19 bers shall be of the same political party. No member  
20 shall be an officer or employee of the Federal Gov-  
21 ernment, in either the executive branch or the Con-  
22 gress.

23 “(4) Members of the Board shall serve at the  
24 pleasure of the Administrator for terms of three  
25 years or less.

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

5           “(6) A majority of the members of the Board  
6           shall constitute a quorum for the conduct of busi-  
7           ness, but a lesser number may hold hearings.

8           “(d) POWERS OF THE BOARDS.

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

12          “(2) The Board may use the United States  
13          mails in the same manner and under the same con-  
14          ditions as other departments and agencies of the  
15          Federal Government.

16          “(3) The Board may accept donations of serv-  
17          ices necessary to conduct its business, provided that  
18          the donations and their sources are disclosed by the  
19          Board.

20          “(4) Members of the Board shall serve without  
21          compensation, provided that, members of the Board  
22          shall be allowed travel expenses, including per diem  
23          in lieu of subsistence, at rates authorized for em-  
24          ployees of agencies under subchapter I of chapter 57  
25          of title 5, United States Code, while away from their

1 homes or regular places of business in the perform-  
2 ance of services for the Board.”.

3 **SEC. 223. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT**  
4 **ACTIONS.**

5 (a) IN GENERAL.—Each agency regulating the activi-  
6 ties of small entities shall establish a policy or program  
7 within 1 year of enactment of this section to provide for  
8 the reduction, and under appropriate circumstances for  
9 the waiver, of civil penalties for violations of a statutory  
10 or regulatory requirement by a small entity. Under appro-  
11 priate circumstances, an agency may consider ability to  
12 pay in determining penalty assessments on small entities.

13 (b) CONDITIONS AND EXCLUSIONS.—Subject to the  
14 requirements or limitations of other statutes, policies or  
15 programs established under this section shall contain con-  
16 ditions or exclusions which may include, but shall not be  
17 limited to—

18 (1) requiring the small entity to correct the vio-  
19 lation within a reasonable correction period;

20 (2) limiting the applicability to violations dis-  
21 covered through participation by the small entity in  
22 a compliance assistance or audit program operated  
23 or supported by the agency or a state;

24 (3) excluding small entities that have been sub-  
25 ject to multiple enforcement actions by the agency;

1           (4) excluding violations involving willful or  
2 criminal conduct;

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

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

7       (c) REPORTING.—Agencies shall report to the Com-  
8 mittee on Small Business and Committee on Govern-  
9 mental Affairs of the Senate and the Committee on Small  
10 Business and Committee on Judiciary of the House of  
11 Representatives no later than 2 years after the date of  
12 enactment of this section on the scope of their program  
13 or policy, the number of enforcement actions against small  
14 entities that qualified or failed to qualify for the program  
15 or policy, and the total amount of penalty reductions and  
16 waivers.

17 **SEC. 224. EFFECTIVE DATE.**

18       This subtitle and the amendments made by this sub-  
19 title shall take effect on the expiration of 90 days after  
20 the date of enactment of this subtitle.

1 **Subtitle C—Equal Access to Justice**  
2 **Act Amendments**

3 **SEC. 231. ADMINISTRATIVE PROCEEDINGS.**

4 (a) Section 504(a) of title 5, United States Code, is  
5 amended by adding at the end the following new para-  
6 graph:

7 “(4) If, in an adversary adjudication arising from an  
8 agency action to enforce a party’s compliance with a statu-  
9 tory or regulatory requirement, the demand by the agency  
10 is substantially in excess of the decision of the adjudicative  
11 officer and is unreasonable when compared with such deci-  
12 sion, under the facts and circumstances of the case, the  
13 adjudicative officer shall award to the party the fees and  
14 other expenses related to defending against the excessive  
15 demand, unless the party has committed a willful violation  
16 of law or otherwise acted in bad faith, or special cir-  
17 cumstances make an award unjust. Fees and expenses  
18 awarded under this paragraph shall be paid only as a con-  
19 sequence of appropriations provided in advance.”.

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

22 (1) in paragraph (1)(A), by striking “\$75” and  
23 inserting “\$125”;

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

4           (3) at the end of paragraph (1)(D), by striking  
5           “and”;

6           (4) at the end of paragraph (1)(E), by striking  
7           the period and inserting “; and”; and

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

10           “(F) ‘demand’ means the express demand of  
11           the agency which led to the adversary adjudication,  
12           but does not include a recitation by the agency of  
13           the maximum statutory penalty (i) in the adminis-  
14           trative complaint, or (ii) elsewhere when accom-  
15           panied by an express demand for a lesser amount.”.

16 **SEC. 232. JUDICIAL PROCEEDINGS.**

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

20           “(D) If, in a civil action brought by the United States  
21           or a proceeding for judicial review of an adversary adju-  
22           dication described in section 504(a)(4) of title 5, the de-  
23           mand by the United States is substantially in excess of  
24           the judgment finally obtained by the United States and  
25           is unreasonable when compared with such judgment,

1 under the facts and circumstances of the case, the court  
2 shall award to the party the fees and other expenses relat-  
3 ed to defending against the excessive demand, unless the  
4 party has committed a willful violation of law or otherwise  
5 acted in bad faith, or special circumstances make an  
6 award unjust. Fees and expenses awarded under this sub-  
7 paragraph shall be paid only as a consequence of appro-  
8 priations provided in advance.”.

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

11 (1) in paragraph (2)(A), by striking “\$75” and  
12 inserting “\$125”;

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

17 (3) at the end of paragraph (2)(G), by striking  
18 “and”;

19 (4) at the end of paragraph (2)(H), by striking  
20 the period and inserting “; and”; and

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

23 “(I) ‘demand’ means the express demand of the  
24 United States which led to the adversary adjudica-  
25 tion, but shall not include a recitation of the maxi-

1       mum statutory penalty (i) in the complaint, or (ii)  
2       elsewhere when accompanied by an express demand  
3       for a lesser amount.”.

4       **SEC. 233. EFFECTIVE DATE.**

5       The amendments made by sections 331 and 332 shall  
6       apply to civil actions and adversary adjudications com-  
7       menced on or after the date of the enactment of this sub-  
8       title.

9       **Subtitle D—Regulatory Flexibility**  
10       **Act Amendments**

11       **SEC. 241. REGULATORY FLEXIBILITY ANALYSES.**

12       (a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—

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

15                       (A) by inserting after “proposed rule”, the  
16                       phrase “, or publishes a notice of proposed rule-  
17                       making for an interpretative rule involving the  
18                       internal revenue laws of the United States”;  
19                       and

20                       (B) by inserting at the end of the sub-  
21                       section, the following new sentence: “In the  
22                       case of an interpretative rule involving the in-  
23                       ternal revenue laws of the United States, this  
24                       chapter applies to interpretative rules published  
25                       in the Federal Register for codification in the

1 Code of Federal Regulations, but only to the  
2 extent that such interpretative rules impose on  
3 small entities a collection of information re-  
4 quirement.”.

5 (2) SECTION 601.—Section 601 of title 5, Unit-  
6 ed States Code, is amended by striking “and” at the  
7 end of paragraph (5), by striking the period at the  
8 end of paragraph (6) and inserting “; and”, and by  
9 adding at the end the following:

10 “(7) the term ‘collection of information’—

11 “(A) means the obtaining, causing to be  
12 obtained, soliciting, or requiring the disclosure  
13 to third parties or the public, of facts or opin-  
14 ions by or for an agency, regardless of form or  
15 format, calling for either—

16 “(i) answers to identical questions  
17 posed to, or identical reporting or record-  
18 keeping requirements imposed on, 10 or  
19 more persons, other than agencies, instru-  
20 mentalities, or employees of the United  
21 States; or

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

1           “(B) shall not include a collection of infor-  
2           mation described under section 3518(c)(1) of  
3           title 44, United States Code.

4           “(8) RECORDKEEPING REQUIREMENT.—The  
5           term ‘recordkeeping requirement’ means a require-  
6           ment imposed by an agency on persons to maintain  
7           specified records.

8           (b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—  
9           Section 604 of title 5, United States Code, is amended—  
10           (1) in subsection (a) to read as follows:

11           “(a) When an agency promulgates a final rule under  
12           section 553 of this title, after being required by that sec-  
13           tion or any other law to publish a general notice of pro-  
14           posed rulemaking, or promulgates a final interpretative  
15           rule involving the internal revenue laws of the United  
16           States as described in section 603(a), the agency shall pre-  
17           pare a final regulatory flexibility analysis. Each final regu-  
18           latory flexibility analysis shall contain—

19           “(1) a succinct statement of the need for, and  
20           objectives of, the rule;

21           “(2) a summary of the significant issues raised  
22           by the public comments in response to the initial  
23           regulatory flexibility analysis, a summary of the as-  
24           sessment of the agency of such issues, and a state-

1       ment of any changes made in the proposed rule as  
2       a result of such comments;

3               “(3) a description of and an estimate of the  
4       number of small entities to which the rule will apply  
5       or an explanation of why no such estimate is avail-  
6       able;

7               “(4) a description of the projected reporting,  
8       record keeping and other compliance requirements of  
9       the rule, including an estimate of the classes of  
10      small entities which will be subject to the require-  
11      ment and the type of professional skills necessary  
12      for preparation of the report or record; and

13              “(5) a description of the steps the agency has  
14      taken to minimize the significant economic impact  
15      on small entities consistent with the stated objectives  
16      of applicable statutes, including a statement of the  
17      factual, policy, and legal reasons for selecting the al-  
18      ternative adopted in the final rule and why each one  
19      of the other significant alternatives to the rule con-  
20      sidered by the agency which affect the impact on  
21      small entities was rejected.”; and

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

1 **SEC. 242. JUDICIAL REVIEW.**

2 Section 611 of title 5, United States Code, is amend-  
3 ed to read as follows:

4 **“§611. Judicial review**

5 “(a)(1) For any rule subject to this chapter, a small  
6 entity that is adversely affected or aggrieved by final agen-  
7 cy action is entitled to judicial review of agency compliance  
8 with the requirements of sections 601, 604, 605(b),  
9 608(b), and 610 in accordance with chapter 7. Agency  
10 compliance with sections 607 and 609(a) shall be judicially  
11 reviewable in connection with judicial review of section  
12 604.

13 “(2) Each court having jurisdiction to review such  
14 rule for compliance with section 553, or under any other  
15 provision of law, shall have jurisdiction to review any  
16 claims of noncompliance with sections 601, 604, 605(b),  
17 608(b), and 610 in accordance with chapter 7. Agency  
18 compliance with sections 607 and 609(a) shall be judicially  
19 reviewable in connection with judicial review of section  
20 604.

21 “(3)(A) A small entity may seek such review during  
22 the period beginning on the date of final agency action  
23 and ending one year later, except that where a provision  
24 of law requires that an action challenging a final agency  
25 action be commenced before the expiration of one year,

1 such lesser period shall apply to an action for judicial re-  
2 view under this section.

3 “(B) In the case where an agency delays the issuance  
4 of a final regulatory flexibility analysis pursuant to section  
5 608(b) of this chapter, an action for judicial review under  
6 this section shall be filed not later than—

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

9 “(ii) where a provision of law requires that an  
10 action challenging a final agency regulation be com-  
11 menced before the expiration of the 1-year period,  
12 the number of days specified in such provision of law  
13 that is after the date the analysis is made available  
14 to the public.

15 “(4) In granting any relief in an action under this  
16 section, the court shall order the agency to take corrective  
17 action consistent with this chapter and chapter 7, includ-  
18 ing, but not limited to—

19 “(A) remanding the rule to the agency, and

20 “(B) deferring the enforcement of the rule  
21 against small entities unless the court finds that  
22 continued enforcement of the rule is in the public in-  
23 terest.

24 “(5) Nothing in this subsection shall be construed to  
25 limit the authority of any court to stay the effective date

1 of any rule or provision thereof under any other provision  
2 of law or to grant any other relief in addition to the re-  
3 quirements of this section.

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

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

12 “(d) Nothing in this section bars judicial review of  
13 any other impact statement or similar analysis required  
14 by any other law if judicial review of such statement or  
15 analysis is otherwise permitted by law.”.

16 **SEC. 243. TECHNICAL AND CONFORMING AMENDMENTS.**

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

19 “(b) Sections 603 and 604 of this title shall not apply  
20 to any proposed or final rule if the head of the agency  
21 certifies that the rule will not, if promulgated, have a sig-  
22 nificant economic impact on a substantial number of small  
23 entities. If the head of the agency makes a certification  
24 under the preceding sentence, the agency shall publish  
25 such certification in the Federal Register at the time of

1 publication of general notice of proposed rulemaking for  
2 the rule or at the time of publication of the final rule,  
3 along with a statement providing the factual basis for such  
4 certification. The agency shall provide such certification  
5 and statement to the Chief Counsel for Advocacy of the  
6 Small Business Administration.”.

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

9 (1) in subsection (a), by striking “the commit-  
10 tees on the Judiciary of the Senate and the House  
11 of Representatives, the Select Committee on Small  
12 Business of the Senate, and the Committee on Small  
13 Business of the House of Representatives” and in-  
14 serting “the Committees on the Judiciary and Small  
15 Business of the Senate and House of Representa-  
16 tives”.

17 (2) in subsection (b), by striking “his views  
18 with respect to the” and inserting in lieu thereof,  
19 “his or her views with respect to compliance with  
20 this chapter, the adequacy of the rulemaking record  
21 with respect to small entities and the”.

22 **SEC. 244. SMALL BUSINESS ADVOCACY REVIEW PANELS.**

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

1           (1) before “techniques,” by inserting “the rea-  
2           sonable use of”;

3           (2) in paragraph (4), after “entities” by insert-  
4           ing “including soliciting and receiving comments  
5           over computer networks”;

6           (3) by designating the current text as sub-  
7           section (a); and

8           (4) by adding the following:

9           “(b) Prior to publication of an initial regulatory flexi-  
10          bility analysis which a covered agency is required to con-  
11          duct by this chapter—

12           “(1) a covered agency shall notify the Chief  
13          Counsel for Advocacy of the Small Business Admin-  
14          istration and provide the Chief Counsel with infor-  
15          mation on the potential impacts of the proposed rule  
16          on small entities and the type of small entities that  
17          might be affected;

18           “(2) not later than 15 days after the date of re-  
19          ceipt of the materials described in paragraph (1),  
20          the Chief Counsel shall identify individuals rep-  
21          resentative of affected small entities for the purpose  
22          of obtaining advice and recommendations from those  
23          individuals about the potential impacts of the pro-  
24          posed rule;

1           “(3) the agency shall convene a review panel for  
2 such rule consisting wholly of full time Federal em-  
3 ployees of the office within the agency responsible  
4 for carrying out the proposed rule, the Office of In-  
5 formation and Regulatory Affairs within the Office  
6 of Management and Budget, and the Chief Counsel;

7           “(4) the panel shall review any material the  
8 agency has prepared in connection with this chapter,  
9 including any draft proposed rule, collect advice and  
10 recommendations of each individual small entity rep-  
11 resentative identified by the agency after consulta-  
12 tion with the Chief Counsel, on issues related to sub-  
13 sections 603(b), paragraphs (3), (4) and (5) and  
14 603(c);

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

23           “(6) where appropriate, the agency shall modify  
24 the proposed rule, the initial regulatory flexibility

1 analysis or the decision on whether an initial regu-  
2 latory flexibility analysis is required.

3 “(c) An agency may in its discretion apply subsection  
4 (b) to rules that the agency intends to certify under sub-  
5 section 605(b), but the agency believes may have a greater  
6 than de minimis impact on a substantial number of small  
7 entities.

8 “(d) For purposed of this section, the term covered  
9 agency means the Environmental Protection Agency and  
10 the Occupational Safety and Health Administration of the  
11 Department of Labor.

12 “(e) The Chief Counsel for Advocacy, in consultation  
13 with the individuals identified in subsection (b)(2), and  
14 with the Administrator of the Office of Information and  
15 Regulatory Affairs within the Office of Management and  
16 Budget, may waive the requirements of subsections (b)(3),  
17 (b)(4), and (b)(5) by including in the rulemaking record  
18 a written finding, with reasons therefor, that those re-  
19 quirements would not advance the effective participation  
20 of small entities in the rulemaking process. For purposes  
21 of this subsection, the factors to be considered in making  
22 such a finding are as follows:

23 “(1) In developing a proposed rule, the extent  
24 to which the covered agency consulted with individ-  
25 uals representative of affected small entities with re-

1       spect to the potential impacts of the rule and took  
2       such concerns into consideration.

3               “(2) Special circumstances requiring prompt is-  
4       suance of the rule.

5               “(3) Whether the requirements of subsection  
6       (b) would provide the individuals identified in sub-  
7       section (b)(2) with a competitive advantage relative  
8       to other small entities.”.

9       (b) **SMALL BUSINESS ADVOCACY CHAIRPERSONS.**—  
10   Not later than 30 days after the date of enactment of this  
11   Act, the head of each covered agency that has conducted  
12   a final regulatory flexibility analysis shall designate a  
13   small business advocacy chairperson using existing person-  
14   nel to the extent possible, to be responsible for implement-  
15   ing this section and to act as permanent chair of the agen-  
16   cy’s review panels established pursuant to this section.

17   **SEC. 245. EFFECTIVE DATE.**

18       This subtitle shall become effective on the expiration  
19   of 90 days after the date of enactment of this subtitle,  
20   except that such amendments shall not apply to interpre-  
21   tative rules for which a notice of proposed rulemaking was  
22   published prior to the date of enactment.

1 **Subtitle E—Congressional Review**

2 **SEC. 251. CONGRESSIONAL REVIEW OF AGENCY RULE-**  
 3 **MAKING.**

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

6 **“CHAPTER 8—CONGRESSIONAL REVIEW**  
 7 **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional disapproval procedure.

“803. Special rule on statutory, regulatory, and judicial deadlines.

“804. Definitions.

“805. Judicial review.

“806. Applicability; severability.

“807. Exemption for monetary policy.

“808. Effective date of certain rules.

8 **“§ 801. Congressional review**

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

13 “(i) a copy of the rule;

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

16 “(iii) the proposed effective date of the rule.

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

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

3           “(ii) the agency’s actions relevant to sections  
4 603, 604, 605, 607, and 609;

5           “(iii) the agency’s actions relevant to sections  
6 202, 203, 204, and 205 of the Unfunded Mandates  
7 Reform Act of 1995; and

8           “(iv) any other relevant information or require-  
9 ments under any other Act and any relevant Execu-  
10 tive Orders.

11          “(C) Upon receipt of a report submitted under sub-  
12 paragraph (A), each House shall provide copies of the re-  
13 port to the Chairman and Ranking Member of each stand-  
14 ing committee with jurisdiction under the rules of the  
15 House of Representatives or the Senate to report a bill  
16 to amend the provision of law under which the rule is is-  
17 sued.

18          “(2)(A) The Comptroller General shall provide a re-  
19 port on each major rule to the committees of jurisdiction  
20 in each House of the Congress by the end of 15 calendar  
21 days after the submission or publication date as provided  
22 in section 802(b)(2). The report of the Comptroller Gen-  
23 eral shall include an assessment of the agency’s compli-  
24 ance with procedural steps required by paragraph (1)(B).

1       “(B) Federal agencies shall cooperate with the Comp-  
2 troller General by providing information relevant to the  
3 Comptroller General’s report under subparagraph (A).

4       “(3) A major rule relating to a report submitted  
5 under paragraph (1) shall take effect on the latest of—

6           “(A) the later of the date occurring 60 days  
7 after the date on which—

8               “(i) the Congress receives the report sub-  
9 mitted under paragraph (1); or

10               “(ii) the rule is published in the Federal  
11 Register, if so published;

12           “(B) if the Congress passes a joint resolution of  
13 disapproval described in section 802 relating to the  
14 rule, and the President signs a veto of such resolu-  
15 tion, the earlier date—

16               “(i) on which either House of Congress  
17 votes and fails to override the veto of the Presi-  
18 dent; or

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

22           “(C) the date the rule would have otherwise  
23 taken effect, if not for this section (unless a joint  
24 resolution of disapproval under section 802 is en-  
25 acted).

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

4       “(5) Notwithstanding paragraph (3), the effective  
5 date of a rule shall not be delayed by operation of this  
6 chapter beyond the date on which either House of Con-  
7 gress votes to reject a joint resolution of disapproval under  
8 section 802.

9       “(b)(1) A rule shall not take effect (or continue), if  
10 the Congress enacts a joint resolution of disapproval, de-  
11 scribed under section 802, of the rule.

12       “(2) A rule that does not take effect (or does not  
13 continue) under paragraph (1) may not be reissued in sub-  
14 stantially the same form, and a new rule that is substan-  
15 tially the same as such a rule may not be issued, unless  
16 the reissued or new rule is specifically authorized by a law  
17 enacted after the date of the joint resolution disapproving  
18 the original rule.

19       “(c)(1) Notwithstanding any other provision of this  
20 section (except subject to paragraph (3)), a rule that  
21 would not take effect by reason of subsection (a)(3) may  
22 take effect, if the President makes a determination under  
23 paragraph (2) and submits written notice of such deter-  
24 mination to the Congress.

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

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

6           “(B) necessary for the enforcement of criminal  
7 laws;

8           “(C) necessary for national security; or

9           “(D) issued pursuant to any statute implement-  
10 ing an international trade agreement.

11       “(3) An exercise by the President of the authority  
12 under this subsection shall have no effect on the proce-  
13 dures under section 802 or the effect of a joint resolution  
14 of disapproval under this section.

15       “(d)(1) In addition to the opportunity for review oth-  
16 erwise provided under this chapter, in the case of any rule  
17 for which a report was submitted in accordance with sub-  
18 section (a)(1)(A) during the period beginning on the date  
19 occurring—

20           “(A) in the case of the Senate, 60 session days,  
21 or

22           “(B) in the case of the House of Representa-  
23 tives, 60 legislative days,

24 before the date the Congress adjourns a session of Con-  
25 gress through the date on which the same or succeeding

1 Congress first convenes its next session, section 802 shall  
2 apply to such rule in the succeeding session of Congress.

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

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

8 “(I) in the case of the Senate, the 15th  
9 session day, or

10 “(II) in the case of the House of Rep-  
11 resentatives, the 15th legislative day,  
12 after the succeeding session of Congress first con-  
13 venes; and

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

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

20 “(3) A rule described under paragraph (1) shall take  
21 effect as otherwise provided by law (including other sub-  
22 sections of this section).

23 “(e)(1) For purposes of this subsection, section 802  
24 shall also apply to any major rule promulgated between

1 March 1, 1996, and the date of the enactment of this  
2 chapter.

3 “(2) In applying section 802 for purposes of Congres-  
4 sional review, a rule described under paragraph (1) shall  
5 be treated as though—

6 “(A) such rule were published in the Federal  
7 Register on the date of enactment of this chapter;  
8 and

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

11 “(3) The effectiveness of a rule described under para-  
12 graph (1) shall be as otherwise provided by law, unless  
13 the rule is made of no force or effect under section 802.

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

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

23 **“§ 802. Congressional disapproval procedure**

24 “(a) For purposes of this section, the term ‘joint res-  
25 olution’ means only a joint resolution introduced in the

1 period beginning on the date on which the report referred  
2 to in section 801(a)(1)(A) is received by Congress and  
3 ending 60 days thereafter (excluding days either House  
4 of Congress is adjourned for more than 3 days during a  
5 session of Congress), the matter after the resolving clause  
6 of which is as follows: ‘That Congress disapproves the rule  
7 submitted by the            relating to            , and such rule  
8 shall have no force or effect.’ (The blank spaces being ap-  
9 propriately filled in).

10            “(b)(1) A joint resolution described in subsection (a)  
11 shall be referred to the committees in each House of Con-  
12 gress with jurisdiction.

13            “(2) For purposes of this section, the term ‘submis-  
14 sion or publication date’ means the later of the date on  
15 which—

16            “(A) the Congress receives the report submitted  
17 under section 801(a)(1); or

18            “(B) the rule is published in the Federal Reg-  
19 ister, if so published.

20            “(c) In the Senate, if the committee to which is re-  
21 ferred a joint resolution described in subsection (a) has  
22 not reported such joint resolution (or an identical joint  
23 resolution) at the end of 20 calendar days after the sub-  
24 mission or publication date defined under subsection  
25 (b)(2), such committee may be discharged from further

1 consideration of such joint resolution upon a petition sup-  
2 ported in writing by 30 Members of the Senate, and such  
3 joint resolution shall be placed on the calendar.

4       “(d)(1) In the Senate, when the committee to which  
5 a joint resolution is referred has reported, or when a com-  
6 mittee is discharged (under subsection (c)) from further  
7 consideration of a joint resolution described in subsection  
8 (a), it is at any time thereafter in order (even though a  
9 previous motion to the same effect has been disagreed to)  
10 for a motion to proceed to the consideration of the joint  
11 resolution, and all points of order against the joint resolu-  
12 tion (and against consideration of the joint resolution) are  
13 waived. The motion is not subject to amendment, or to  
14 a motion to postpone, or to a motion to proceed to the  
15 consideration of other business. A motion to reconsider the  
16 vote by which the motion is agreed to or disagreed to shall  
17 not be in order. If a motion to proceed to the consideration  
18 of the joint resolution is agreed to, the joint resolution  
19 shall remain the unfinished business of the Senate until  
20 disposed of.

21       “(2) In the Senate, debate on the joint resolution,  
22 and on all debatable motions and appeals in connection  
23 therewith, shall be limited to not more than 10 hours,  
24 which shall be divided equally between those favoring and  
25 those opposing the joint resolution. A motion further to

1 limit debate is in order and not debatable. An amendment  
2 to, or a motion to postpone, or a motion to proceed to  
3 the consideration of other business, or a motion to recom-  
4 mit the joint resolution is not in order.

5 “(3) In the Senate, immediately following the conclu-  
6 sion of the debate on a joint resolution described in sub-  
7 section (a), and a single quorum call at the conclusion of  
8 the debate if requested in accordance with the rules of the  
9 Senate, the vote on final passage of the joint resolution  
10 shall occur.

11 “(4) Appeals from the decisions of the Chair relating  
12 to the application of the rules of the Senate to the proce-  
13 dure relating to a joint resolution described in subsection  
14 (a) shall be decided without debate.

15 “(e) In the Senate the procedure specified in sub-  
16 section (c) or (d) shall not apply to the consideration of  
17 a joint resolution respecting a rule—

18 “(1) after the expiration of the 60 session days  
19 beginning with the applicable submission or publica-  
20 tion date, or

21 “(2) if the report under section 801(a)(1)(A)  
22 was submitted during the period referred to in sec-  
23 tion 801(d)(1), after the expiration of the 60 session  
24 days beginning on the 15th session day after the  
25 succeeding session of Congress first convenes.

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

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

8           “(2) With respect to a joint resolution described  
9 in subsection (a) of the House receiving the joint  
10 resolution—

11           “(A) the procedure in that House shall be  
12 the same as if no joint resolution had been re-  
13 ceived from the other House; but

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

16       “(g) This section is enacted by Congress—

17           “(1) as an exercise of the rulemaking power of  
18 the Senate and House of Representatives, respec-  
19 tively, and as such it is deemed a part of the rules  
20 of each House, respectively, but applicable only with  
21 respect to the procedure to be followed in that  
22 House in the case of a joint resolution described in  
23 subsection (a), and it supersedes other rules only to  
24 the extent that it is inconsistent with such rules; and



1           “(2) The term “major rule” means any rule  
2 that the Administrator of the Office of Information  
3 and Regulatory Affairs of the Office of Management  
4 and Budget finds has resulted in or is likely to re-  
5 sult in—

6           “(A) an annual effect on the economy of  
7 \$100,000,000 or more;

8           “(B) a major increase in costs or prices for  
9 consumers, individual industries, Federal,  
10 State, or local government agencies, or geo-  
11 graphic regions; or

12           “(C) significant adverse effects on competi-  
13 tion, employment, investment, productivity, in-  
14 novation, or on the ability of United States-  
15 based enterprises to compete with foreign-based  
16 enterprises in domestic and export markets.

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

20           “(3) The term ‘rule’ has the meaning given  
21 such term in section 551, except that such term does  
22 not include—

23           “(A) any rule of particular applicability,  
24 including a rule that approves or prescribes for  
25 the future rates, wages, prices, services, or al-

1 lowances therefor, corporate or financial struc-  
2 tures, reorganizations, mergers, or acquisitions  
3 thereof, or accounting practices or disclosures  
4 bearing on any of the foregoing;

5 “(B) any rule relating to agency manage-  
6 ment or personnel; or

7 “(C) any rule of agency organization, pro-  
8 cedure, or practice that does not substantially  
9 affect the rights or obligations of non-agency  
10 parties.

11 **“§ 805. Judicial review**

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

14 **“§ 806. Applicability; severability**

15 “(a) This chapter shall apply notwithstanding any  
16 other provision of law.

17 “(b) If any provision of this chapter or the applica-  
18 tion of any provision of this chapter to any person or cir-  
19 cumstance, is held invalid, the application of such provi-  
20 sion to other persons or circumstances, and the remainder  
21 of this chapter, shall not be affected thereby.

22 **“§ 807. Exemption for monetary policy**

23 “Nothing in this chapter shall apply to rules that con-  
24 cern monetary policy proposed or implemented by the

1 Board of Governors of the Federal Reserve System or the  
 2 Federal Open Market Committee.

3 **“§ 808. Effective date of certain rules**

4 “Notwithstanding section 801—

5 “(1) any rule that establishes, modifies, opens,  
 6 closes, or conducts a regulatory program for a com-  
 7 mercial, recreational, or subsistence activity related  
 8 to hunting, fishing, or camping, or

9 “(2) any rule which an agency for good cause  
 10 finds (and incorporates the finding and a brief state-  
 11 ment of reasons therefor in the rule issued) that no-  
 12 tice and public procedure thereon are impracticable,  
 13 unnecessary, or contrary to the public interest,  
 14 shall take effect at such time as the Federal agency pro-  
 15 mulgating the rule determines.”.

16 **SEC. 252. EFFECTIVE DATE.**

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

19 **SEC. 253. TECHNICAL AMENDMENT.**

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

**“8. Congressional Review of Agency Rulemaking ..... 801”.**

1    **TITLE III—PUBLIC DEBT LIMIT**

2    **SEC. 301. INCREASE IN PUBLIC DEBT LIMIT.**

3        Subsection (b) of section 3101 of title 31, United  
4 States Code, is amended by striking the dollar limitation  
5 contained in such subsection and inserting  
6 “\$5,500,000,000,000”.

      Passed the House of Representatives March 28,  
1996.

Attest:

ROBIN H. CARLE,

*Clerk.*