

Dr. Susan D. HHS by Tues/2
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when to Bruce

List of Proposed Technical and Clarifying Amendments to Welfare Reform law (P.L. 104-193)

T = Technical
P = Policy
C = Costs \$

Agency	Amendment	Type	Recommendation for Inclusion
HHS 1	Amendment to Title I (TANF): Advanced State Plan Requirement (p. hhs2)	T	Yes
2	Amendment to Title I (TANF): Calculation of Bonus for Decrease in Illegitimacy (p. hhs2)	T	Yes
3	Amendment to Title I (TANF): Contingency Fund (p. hhs3) A. Inconsistent Terminology	T	Yes
4	Amendment to Title I (TANF): Contingency Fund (p. hhs3) B. Responsibility for Administering Contingency Fund	T	Yes
5	Amendment to Title I (TANF): Clarification of Amount Transferable to Title XX Programs (p. hhs4)	P, C	No
6	Amendment to Title I (TANF): Availability of Loans to Indian Tribes (p. hhs 5)	T	Yes
*7	Amendment to Title I (TANF): State Option to Exclude Individuals Subject to Tribal Work Programs from State Participation Rates (p. hhs 5)	P	No
8	Amendment to Title I (TANF): Amendments to Mandatory Work Requirements (p. hhs6) A. Inconsistent Standards for Engagement in Work	T	HHS must fix description

9	Amendment to Title I (TANF): Amendments to Mandatory Work Requirements (p. hhs7) B. Penalties Against Individuals: Inconsistent Provisions	T	Yes
10	Amendment to Title I (TANF): Assignments of Support Rights: Clarification (p. hhs7)	P	No - clarification needed
*11	Amendment to Title I (TANF): Time Limit on Benefits: Disregard of Certain Assistance to Reservation Residents (p. hhs 8)	P	No - further discussion needed
*12	Amendment to Title I (TANF): Inconsistent Allowance of Discretion to Set Amount of Certain Penalties (p. hhs9)	P	No
*13	Amendment to Title I (TANF): Requirement to Maintain Level of Historic Effort (p. hhs10) Definition of Qualified State Expenditures: Benefits for Aliens	P	No - clarification needed
*14	Amendment to Title I (TANF): Requirement to Maintain Level of Historic Effort (p. hhs11) Definition of Qualified State Expenditures: Definition of Historic State Expenditures	P	Yes
15	Amendment to Title I (TANF): Requirement to Maintain Level of Historic Effort (p. hhs11) Definition of Qualified State Expenditures: Definition of Expenditures by the State	T	Yes - but clarify
*16	Amendment to Title I (TANF): Penalties for Non-Compliance with CSE Requirements (p. hhs12)	P	No
17	Amendment to Title I (TANF): Exclusions from Reasonable Cause Penalty Exceptions (p. hhs15)	T	Yes
18	Amendment to Title I (TANF): Penalties not Avoidable through Corrective Compliance Plans (p. hhs16)	T	Yes
19	Amendment to Title I (TANF): Data Collection and Reporting (p. hhs17)	T	Yes

20	Amendment to Title I (TANF): Grants to Indian Tribes that Received JOBS Funds (p. hhs17)	T	Yes
21	Amendment to Title I (TANF): Research, Evaluations, and National Studies (p. hhs19) A. Methods Available for Conduct of Research	T	Yes
22	Amendment to Title I (TANF): Research, Evaluations, and National Studies (p. hhs19) B. Funding of Previously Authorized Demonstrations	T	Yes
23	Amendment to Title I (TANF): Child Poverty Reports (p. hhs20)	T	Yes - But needs date certain
24	Amendment to Title I (TANF): Federal Payments for TANF Programs in Territories (p. hhs 20)	P	Further discussion
25	Amendment to Title I (TANF): Multiple Territorial Maintenance of Effort Requirement (p. hhs22)	T	Yes
26	Amendment to Title I (TANF): Data Processing Clarifying Amendment (p. hhs22)	T	Yes
27	Amendment to Title I (TANF): Amendments to Title IV-D (p. hhs 23)	P/T	Last two amendments are technical
*28	Amendment to Title I (TANF): Amendments to Title IV-E: Uniform Methodology for Determining Medicaid and Foster Care Adoption Assistance Entitlements (p. hhs23)	P,C	No - Expands Title IV-E (OIRA suggests date change.) Will consider in next package.
29	Amendment to Title I (TANF): Reporting Requirements Applicable to Transition Period (p. hhs25)	T	Yes - if fix reference

*30	Amendment to Title III (Child Support): State Plan Requirements: Clarifying Amendment (p. hhs27)	P	Yes - will need technical amendment to cover Food Stamps
*31	Amendment to Title III (Child Support): Limits on Collections Retained by State and Federal Governments (p. hhs27)	P	Maybe - if modified
*32	Amendment to Title III (Child Support): Collections for Families Receiving Assistance from Indian Tribes (p. hhs28)	T	Yes
33	Amendment to Title III (Child Support): Study and Report (p. hhs28)	T	Yes
34	Amendment to Title III (Child Support): Continuation of Assignments (p. hhs29)	P	No
35	Amendment to Title III (Child Support): State Directory of New Hires: Civil Money Penalty Amount (p. hhs30)	T	Yes
*36	Amendment to Title III (Child Support): Expansion of FPLS: Child Custody and Visitation Orders: Deletion of Incorrect Assertion (p. hhs 30)	P	No
*37	Amendment to Title III (Child Support): Search of Federal Agency Files at Secretary's Request (p. hhs30)	P	No - IRS objects
38	Amendment to Title III (Child Support): Availability of Data in Registries for Research (p. hhs31)	T	Yes
39	Amendment to Title III (Child Support): Use of Social Security Numbers in CSE: Conforming Amendments to Title II of SSA (p. hhs32)	P	No - further discussion needed
40	Amendment to Title III (Child Support): Deadline for State Adoption of Uniform Interstate Family Support Act (UIFSA) 9p. hhs 34)	T	Yes - needs fix

41	Amendment to Title III (Child Support): Performance-based Incentives and Penalties: Correction of Reference (p. hhs35)	T	Yes - needs fix
42	Amendment to Title III (Child Support): Means Available for Provision of Technical Assistance (p. hhs35)	T	Yes
*43	Amendment to Title III (Child Support): Availability of Certain FPLS Funds Until Expended (p. hhs36)	P	Yes - needs fix
44	Amendment to Title III (Child Support): Definition of Support Order (p. hhs36)	T	Yes
45	Amendment to Title III (Child Support): International Support Enforcement (p. hhs37)	T	Yes
*46	Amendment to Title III (Child Support): Cooperative Agreements with States (p. hhs37) Indian Tribes	P	No
*47	Amendment to Title III (Child Support): Direct Federal Funding to Indian Tribes and Tribal Organizations (p. hhs 38) A. Technical Correction	T	Yes
*48	Amendment to Title III (Child Support): Direct Federal Funding to Indian Tribes and Tribal Organizations (p. hhs 38) B. Direct Grants to Tribes (p. hhs38)	P	No - further discussion
*49	Amendment to Title III (Child Support): Miscellaneous Conforming Amendments (p. hhs39)	?	No - further explanation required
50	Amendment to Title IV (Restricting Welfare and Public Benefits for Aliens) : Clarification of Medicare Entitlement (p. hhs41)	T	Y
51	Amendment to Title IV (Restricting Welfare and Public Benefits for Aliens): Clarification of Qualified Aliens' Eligibility for Emergency Benefits (p. hhs41)	P	No

*Expands - Stacey
JBA objects
KA questions*

52	Amendment to Title IV (Restricting Welfare and Public Benefits for Aliens): Clarification of State Option for Medicaid Eligibility of Qualified Aliens Barred from SSI Cash Payments (p. hhs42)	P,C	No <i>bucket</i>
*53	Amendment to Title IV (Restricting Welfare and Public Benefits for Aliens): 5-Year Limited Eligibility for Means-Tested Public Benefits: Correction of Reference Concerning Cuban and Haitian Entrants (p. hhs43)	T,C	Yes - does cost \$60 million over 5 years <i>dropped ???</i>
54	Amendment to Title IV (Restricting Welfare and Public Benefits for Aliens): Aliens' Eligibility for State and Local Benefits: Correction of List of Aliens Lawfully Present (p. hhs44)	T	Yes - prefer HHS' language 11/20
55	Amendment to Title IV (Restricting Welfare and Public Benefits for Aliens): Clarification for State Deeming of Sponsor's Income and Resources to Alien (p. hhs45)	P/T	Spouses - No; Affidavits - Yes
56	Amendment to Title IV (Restricting Welfare and Public Benefits for Aliens): Definitions Relating to Family Relationships, Employment Status, and Similar Matters (p. hhs47)	T	Yes - prefer HHS' language 11/20
57	Amendment to Title V (Child Protection): Methods Permitted for Conduct of Study (p. hhs49)	T	Yes
*58	Amendment to Title VI (Child Care): Funding for Child Care: A. Perfecting and Clarifying Amendments (p. hhs50)	P/T	Yes - needs clarification
59	Amendment to Title VI (Child Care): Funding for Child Care: B. Date Used to Calculate State Expenditures in Base Period (p. hhs52)	P/T	Yes - needs clarification
60	Amendment to Title VI (Child Care): Funding for Child Care: C. Funding for Territories (p. hhs53)	P	No <i>Yes</i>

*61	Amendment to Title VI (Child Care): Funding for Child Care: D. Consistent Definition of Eligible Alaskan Natives (p. hhs55)	P	No Yes?
62	Amendment to Title VI (Child Care): Report to Congress (p. hhs57)	T	Yes
63	Electronic Benefits Transfer (EBT): Duplicative Provisions (p. hhs58)	P	Yes - Stack fix
*64	PACKAGE OF "Additional Minor HHS Proposed Amendments to P.L. 104-193" [Handwritten, no page numbering]	P/T	Certain provisions have policy implications and/or are incorrectly drafted.
SSA 65	Title II (SSI): Denial of Benefits for Fugitive Felons and Probation and Parole Violators (p. ssa1)	T	Yes
66	Title II (SSI): Treatment of Prisoners (p. ssa3): Extend Prisoner Reporting Provisions to OASDI	P,C	No - \$
67	Title II (SSI): Treatment of Prisoners (p. ssa3): Exempt Automated Prisoner Matching Requirements from DIB Review	P	No - OIRA likes certain provisions
68	Title II (SSI): Treatment of Prisoners (p. ssa3): Redefine Institutions Eligible for Incentive Payments	P	No - unnecessary
69	Title II (SSI): Treatment of Prisoners (p. ssa3): Authorize Payment to an Institution that Reports an Inmate Who is Receiving SSI	T	Yes - if modified
70	Title II (SSI): Treatment of Prisoners (p. ssa4): Make Reporting Period for \$400 Incentive Payment 45 days	T	Yes - if modified
71	Title II (SSI): Treatment of Prisoners (p. ssa4): Exempt from CMPPA Prisoner Data Matches for Fitness of Representative Payees	P	No
72	Title II (SSI): Medical Improvement Review Standards as They Apply to Those Under 18 (p. ssa14)	T	Yes <i>K. Choudhury</i>

HHS don't like this
pull it now - KA

73	Title II (SSI): Application to Current Recipients, Eligibility Redeterminations (p. ssa16)	P <i>Richard</i>	Yes - if clarification to current law
74	Title II (SSI): Disability Eligibility Redeterminations Required for SSI Recipients who Attain 18 Years of Age (p. ssa18) <i>mk to effort</i>	P <i>Richard</i>	Yes- if clarification to current law
75	Title II (SSI): Continuing Disability Review Required for Low Birth Weight Babies (p. ssa18)	T,C	Yes
76	Title II (SSI): Requirement to Establish an Account (dedicated savings accounts) (p. ssa21)	T	Yes - if modified
77	Title II (SSI): Change references to "underpayments" to "past-due benefits" (p. ssa21)	T	Yes
*78	Title II (SSI): Reduction in Cash Benefits Payable to Institutionalized Individuals whose Medical Costs are Covered by Private Insurance (p. ssa24)	T	Yes
79	Title II (SSI): Installment Payment of Large-Past Due SSI Benefits: Exclude under 18 with Representative Payee (p. ssa29)	P,C	No
80	Title IV Restricting Welfare and Public Benefits for Aliens: Add widow(er)s of veterans and military personnel as exceptions to SSI prohibition (p. ssa32)	T	Yes
*81	Title IV Restricting Welfare and Public Benefits for Aliens (p. ssa34) Exempt Aliens with 40 quarters from five-year ban (p. ssa34)	P,C	No <i>?? JBA not tech?</i>
*82	Title IV Restricting Welfare and Public Benefits for Aliens: Add condition regarding deeming of spouse's income to limit it in cases where the sponsor and spouse are living together (p. ssa36)	P	No
83	Title IV Restricting Welfare and Public Benefits for Aliens: Correct Cross Reference to Definition of Qualified Alien (p. ssa38)	T	Yes

84	Title IV Restricting Welfare and Public Benefits for Aliens: SSA Disclosure of Quarters of Coverage/Privacy Act (p. ssa42)	T	No - unnecessary
USDA 85	Title II (SSI) Installment Payment of Large-Past Due SSI Benefits (p. usda1)	P,C	No <i>HHS wants</i>
ED 86	Allow States to Count "education directly related to employment" as a Work Requirement (p. ed2)	P	No - revisit
87	Limiting Vocational Education Training to 24 months (p. ed2)	P	No - revisit
88	Miscellaneous ED amendments to PRWORA (p. ed2 - 6)	P	No- revisit
DOJ * 89	Title I (TANF): Clarify that Government-sponsored Assistance may not be Provided through Sectarian Organizations (p. doj1)	P	Defer to WH <i>-EK</i>
*90	Title I (TANF): Require States to Clarify Compliance with Right to Interstate Travel (p. doj6)	P	No
91	Title I (TANF): Denial of Assistance and Benefits for Certain Drug-Related Convictions: Exempt criminal conduct that occurred before PRWORA (p. doj8)	T	Yes
*92	Title III (Child Support): Consent To Requirements Applicable to Private Person: No Waiver of Sovereign Immunity (p. doj18)	P	No
93	Title III (Child Support): Consent To Requirements Applicable to Private Person: Require Social Security Number (p. doj19)	P	No
94	Title III (Child Support): Clarify Moneys Subject to Process (p. doj20)	T	Yes
95	Title III (Child Support): Clarify Response to Notice or Process (p. doj20)	T	Yes
96	Title III (Child Support): Amend No Requirement to Vary Pay Cycles (p. doj22)	P	No

*97	Title III (Child Support): Cooperative Agreements between Tribes and States: Authorize Agreements with Tribes other than those with Tribal Courts (p. doj22)	P	Further discussion needed
*98	Title III (Child Support): Direct Federal Funding to Indian Tribes and Tribal Organizations (p. doj26). Clarification to Receive Direct Funding	P	Further discussion needed
99	Title IV (Public Benefit Restrictions for Aliens): Clarify American Samoa and Northern Mariana Islands included in meaning of "state" (p. doj34)	T	Y - HHS language 11/20
100	Title IV (Public Benefit Restrictions for Aliens): Definition of "Qualified Alien": American Samoan or Northern Mariana Islands (p. doj35)	T	Maybe - further discussion needed
101	Title IV (Public Benefit Restrictions for Aliens): Definition of "Qualified Alien": Clarification of "Battery and Abuse" (p. doj37)	P	No <i>? not clear that needed</i>
102	Title VIII (Food Stamps) Criminal and Civil Penalties/Forfeiture for Food Stamp Violations (p. doj41)	P	No - clarification needed
103	Title IV (Public Benefit Restrictions for Aliens): Notification and Information Reporting: State Requirement to Provide Certain Information (p. doj46)	P/T	Clarification needed <i>No - quarterly report</i>
*104	Title IV (Public Benefit Restrictions for Aliens): SSA Provision of Information to DOJ/INS (p. doj46)	P	No - further discussion needed <i>report frequently</i>
105	Title IV (Public Benefit Restrictions for Aliens): Amendment to US Housing Act: Provision of Information to Law Enforcement and Other Agencies (p. doj47)	P	No
106	Sec. 411(d): Remove Reference to "Lawfully Present" and Grant States the Authority to make Eligible for Benefits all Aliens who are otherwise Ineligible under section 411(a) (p. doj51)	T	Yes - prefers HHS' language

107	Amendments to Sections 402, 403, 412, 431: Withholding of Deportation to Conform PRWORA with P.L. 104-208 (p. doj55)	T	Yes
Interior * 108	Sec. 431: Amendment to Definition Relating to Lawfully Present Alien from the Freely Associated States (p. doi3)	P	Consider in later package
*109	Title I (TANF): Documentation of Services Denied to Indian Citizens through State Plan Update (p. doi5)	P	Consider in later package
*110	Title I (TANF): Allowance for Tribes to Utilize "Interim Tribal Data" (p. doi5)	P	Consider in later package
*111	Title I (TANF): Tribal Assistance Plan: Exemption from Minimum Work Participation Requirements and Time Limits (p. doi6)	P	Consider in later package
*112	Title I (TANF): Tribal Assistance Plan: Exemption from Penalties (p. doi6)	P	Consider in later package
*113	Title I (TANF): Tribal Assistance Plan: Exemption from Data Collection and Reporting (p. doi7)	P	Consider in later package
*114	Title I (TANF): Direct Funding and Administration for Indian Tribes: Special Rule for Indian Tribes in Alaska: Deletion of Sec. 412 (h) (1) (p. doi7)	P	Consider in later package
115	Title I (TANF): Allow Tribes to Participate in Studies or Demonstration Projects in Effect as of 9/30/95 (p. doi7)	T	Defer to HHS
OPM 116	Section 401: Clarify that Provision Shall Not Apply to Any Benefits Payable to an Individual who Resides Outside the U.S. (Payment of Federal Public Benefits within the U.S.) (p. opm2)	T	Yes - needs fix
117	Title III (Child Support): Sec. 362 (a): Consent To Requirements Applicable to Private Person: No Waiver of Sovereign Immunity (p. opm3)	P	No
VA * 118	Clarify Exemption of Certain VA Benefits from Child Support Enforcement (p. va2)	P	No

119	Clarify Limitation on Eligibility of Aliens for Federal Public Benefits (p. va4)	T	Yes
120	Clarify Veterans' Exceptions from Eligibility Limitation for Certain Federal Programs and Means-Tested Public Benefits (p. va5)	T	Yes

12/16/96

INTERNAL TALKING POINTS ON TECHNICALS PACKAGE
to accompany the Executive Summary

Today, the Secretary of Health and Human Services and the Commissioner of Social Security submitted a report to the appropriate committees of Congress containing proposals for technical and conforming amendments to the welfare reform bill enacted August 22, 1996.

- ▶ The report was developed pursuant to a requirement in section 113 of the new law. (It was due 90 days after enactment -- or November 22, 1996)
- ▶ It contains technical, corrective or clarifying amendments only (see Executive Summary for examples). All of the proposals maintain the spirit and intent of the newly enacted legislation. Most of the proposals have no costs, while a few have minor costs or savings.

This report does **not** contain any major policy changes to the new welfare law. Any policy changes that the Administration wishes to pursue will be submitted separately.

- ▶ For example, the President has discussed the importance of tax credits and job creation mechanisms to help move welfare recipients into the workforce. These proposals are not contained in this package.

The reform of welfare programs is proceeding smoothly, and these technical changes and corrections will further the implementation process. We hope to work closely with Republican and Democratic members of Congress to ensure speedy, bipartisan action on this package.



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

The Honorable William V. Roth, Jr.
Chairman, Committee on Finance
United States Senate
Washington, D.C. 20510

DEC 16 1996

Dear Mr. Chairman:

We are pleased to submit for your consideration the enclosed proposals for technical and conforming amendments to the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, as required by Section 113 of that Act.

We believe that these technical and conforming amendments are necessary to ensure that the statutory provisions conform to the welfare reform policies enacted under P.L. 104-193. These proposals were developed after a thorough review of the statute and broad consultation with other federal agencies. They are limited to technical or conforming changes that maintain the spirit and intent of the new law.

The Clinton Administration remains firmly committed to implementing this historic reform of our nation's welfare, Supplemental Security Income and Food Stamp programs. These technical and conforming proposals will assist in this process, and we hope to work with you to ensure their expeditious enactment.

We estimate that only two provisions of the draft bill would have significant effects on outlays. Amendments to sections 402 and 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 relating to Cuban and Haitian entrants and Amerasians would increase costs an estimated \$25 million during FYs 1998-2002. These estimates are based on the January 1996 PAYGO baseline (adjusted by the estimated effects of the PRWORA). Estimates may change after a new baseline is developed for the FY 98 Budget.

The Office of Management and Budget advises that there is no objection to the presentation of the proposed legislation from the standpoint of the Administration's program.

Sincerely,

Donna E. Shalala
Secretary of
Health and Human Services

Shirley S. Chater
Commissioner
Social Security Administration

Enclosure

**Summary of Technical and Conforming Amendments to Personal
Responsibility and Work Opportunity Reconciliation Act of 1996
(P.L. 104-193)**

Implementation of the Personal Responsibility and Work Opportunity Reconciliation Act is proceeding smoothly at both the federal and state levels. To date, 37 states have submitted Temporary Assistance for Needy Families (TANF) state plans, and many have already begun to reform their welfare programs. The changes in other programs are also proceeding smoothly.

Section 113 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) directs the Secretary of Health and Human Services and the Commissioner of Social Security, in consultation with other federal agencies, to submit to the appropriate committees of Congress legislative proposals for technical and conforming amendments necessary to bring the statutory language into conformity with the policies enacted in this new legislation.

A thorough consultation process was conducted among affected agencies to identify provisions in the new law that require technical or conforming amendments to PRWORA. Each proposal includes an explanation of the specific problem that has been identified and a statutory amendment to address the problem in a manner that maintains the spirit and intent of the new law. Early enactment of these technical and conforming amendments will assist the Administration and the States to implement the new law successfully.

Amendments are proposed to the following Titles: Title I (Block Grants for Temporary Assistance for Needy Families (TANF)), Title II (Supplemental Security Income), Title III (Child Support), Title IV (Restricting Welfare and Public Benefits for Aliens), Title V (Child Protection), Title VI (Child Care), and Title VIII (Food Stamps and Commodity Distribution). With the exception of two amendments, which have some costs, we estimate all of the amendments have negligible costs.

The following summarizes the type and nature of the technical amendments contained in this report.

Resolve Inconsistent Terminology: In several instances, the new law inadvertently uses incorrect or inconsistent terminology. For example, PRWORA establishes mandatory work requirements, but uses the phrase "participating in work activities" in some places and the phrase "making progress in work activities" in others. To resolve this inconsistency, an amendment is proposed to use the phrase "participating in work activities" throughout these provisions. (p.6)

Conform Dates: Amendments are proposed to conform or revise a number of dates utilized in the statute. For example, the new law requires states to "look back" to prior AFDC eligibility standards to determine eligibility for Medicaid and for Foster Care and Adoption Assistance. However, the statute utilizes two different look back dates (June 1, 1995 and July 16, 1996) -- creating administrative burdens on the states. An amendment is proposed to use the July 16, 1996 look-back date for both programs. (p.30)

Make Data Elements Uniform: Upon further review of the data and reporting requirements in PRWORA, several amendments are proposed to ensure reference to uniform, accurate and available data sources. The new law does not, for example, specify the data used to calculate historic state expenditures for maintenance of effort purposes. In order to establish a fixed and consistent maintenance of effort level, an amendment is proposed to specify that the same data elements used to calculate the TANF state family assistance grants be used to calculate historic state expenditures. (p.12)

Another data problem arises with the state bonus for reductions in rates of illegitimacy. While the statute explicitly requires the calculation of one data source on a fiscal-year basis, this data is currently available on a calendar-year basis only. Thus, an amendment is proposed to allow calculation of the bonus using the data available on a calendar-year basis in order to avoid the burden and expense of new data collection requirements. (p.3)

Clarify Congressional Intent: Several amendments are proposed to conform statutory language to congressional intent. For example, the new law establishes several penalties on states for failure to comply with various provisions. However, it also prohibits imposition of the penalties in certain reasonable cause instances and then makes specified exceptions to the reasonable cause prohibition. Because the conference report specifies additional exceptions to the reasonable cause prohibition (e.g. failure to repay the loan fund, and failure to replace grant reductions caused by penalties) beyond those included in the statute, an amendment is proposed to include those specified exceptions in statute. (p.18)

Another amendment is proposed to clarify congressional intent with respect to access to federal programs for qualified alien widow(er)s of persons who have served in the military. While the new law prohibits certain federal benefits for qualified aliens, it provides an exception for the spouse or unmarried dependent

child of veterans or active duty military personnel. In order to clarify that qualified alien widow(er)s do not lose eligibility for these benefits when the veteran or active duty personnel dies, an amendment is proposed to except widow(er)s of such personnel from the general prohibition. (p.66)

Close Gaps Between Previous Law and New Statute: In a few instances, the transition from the previous law to the new statute inadvertently left gaps in the application or coverage of various laws. For example, the Attorney General is required to develop a new legally enforceable affidavit of support for aliens entering the country after enactment of PRWORA. At the same time, the authority for states to deem sponsor income for aliens already in the country was repealed with respect to TANF. Because this leaves states with no authority to deem sponsor income for current aliens for TANF, an amendment is proposed to reinstate the previous deeming requirement, and make it applicable to all affidavits of support executed before the effective date of the new requirement. (p.71)

Conform Provisions and Correct Citations: A number of amendments are proposed to correct citations and references in the new law, and to add further conforming amendments.

PROPOSED CORRECTING AMENDMENTS TO
P.L. 104-193, THE PERSONAL RESPONSIBILITY AND
WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (PRWORA)

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PROPOSED CORRECTING AMENDMENTS TO
P.L. 104-193, THE PERSONAL RESPONSIBILITY AND
WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (PRWORA)

NOTE: In the following proposals, except as otherwise indicated--

- (1) references to a section or other provision of law are to the PRWORA; and
- (2) the proposed correcting amendments should take effect as if enacted on August 22, 1996, as part of PRWORA.

Abbreviations used have the following meanings:

"AFDC" means the Aid to Families with Dependent Children program under title IV-A of the Social Security Act, as in effect before enactment of PRWORA.

"CCDBG" means the Child Care Development Block Grant program.

"CSE" means the Child Support Enforcement program under title IV-D of the Social Security Act.

"FPLS" means the Federal Parent Locator Service operated under section 453 of the Social Security Act.

"HHS" means the Department of Health and Human Services.

"INA" means the Immigration and Nationality Act.

"JOBS" means the Job Opportunities and Basic Services program under title IV-F of the Social Security Act, as in effect before enactment of PRWORA.

"MOE" means maintenance of effort.

"PRWORA" means the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

"SSA" means the Social Security Administration.

"SSBG" and "title XX" mean the Social Services Block Grant program under title XX of the Social Security Act.

"TANF" means the program of Temporary Assistance for Needy Families under title IV-A of the Social Security Act, as amended by PRWORA.

"UIFSA" means the Uniform Interstate Family Support Act.

* * * * *

PROPOSED AMENDMENTS:

Sections of PRWORA are indicated in **boldface** below, followed by the amendments needed to such sections (or to provisions of other laws added or amended by such sections):

**TITLE I--BLOCK GRANTS FOR TEMPORARY ASSISTANCE
FOR NEEDY FAMILIES**

Sec. 103(a): block grants to States (TANF):

NOTE: For amendment to sec. 103(a)(1) needed to preserve provisions deeming sponsors' income and resources to aliens, see amendments to title IV of PRWORA.

1. ADVANCE STATE PLAN REQUIREMENT.

Problem: Language in sec. 402(a) of the Social Security Act was apparently intended to establish a two-year State planning cycle. However, this language, read literally, would bar title IV-A payments to a State for a fiscal year if the State failed to submit an acceptable plan before the beginning of that fiscal year.

Proposed amendment:

() **ADVANCE STATE PLAN REQUIREMENT.**--Section 402(a) of the Social Security Act is amended, in the matter preceding paragraph (1), by striking ", during the 2-year period immediately preceding the fiscal year, has submitted to the Secretary a plan" and inserting "has submitted to the Secretary a plan, for a period of up to two years including such fiscal year,".

2. CALCULATION OF BONUS FOR DECREASE IN ILLEGITIMACY.

Problem: State eligibility for the bonus under sec. 403(a)(2) of the Social Security Act is based on rates of reduction in induced pregnancy terminations (abortions) and in out-of-wedlock births. Data on both these rates are available only on a calendar year basis. The statutory language is sufficiently flexible to permit calculation of the out-of-wedlock birth rate on a calendar year basis, but explicitly requires calculation of the abortion rate on a fiscal year basis.

Amending this provision to substitute "calendar year" for "fiscal year" would permit calculation of the bonus using data currently available, avoiding the burden and expense of new data collection requirements. It would also enable the two calculations to cover the same annual period, permitting more meaningful comparisons of the data.

Proposed amendments:

() CALCULATION OF BONUS FOR DECREASE IN ILLEGITIMACY.--

Section 403(a)(2)(C) of the Social Security Act is amended--

(1) in clause (i)(I)(bb)--

(A) by striking "fiscal year" the first place it appears and inserting "calendar year in which the bonus year begins"; and

(B) by striking "fiscal year" the second place it appears and inserting "calendar year";

(2) in subclauses (aa) and (bb) of clause (i)(II), by striking "fiscal year" each place it appears and inserting "calendar year"; and

(3) in clause (ii), by striking "fiscal years" and inserting "calendar years".

3. CONTINGENCY FUND.

A. AMENDMENT OF INCONSISTENT TERMINOLOGY.

Problem: Sec. 403(b)(3)(A) of the Social Security Act speaks in terms of "an eligible State", while the corresponding eligibility formula speaks of "a needy State".

Proposed amendment:

() CONTINGENCY FUND: RECONCILIATION OF TERMINOLOGY.--

Section 403(b)(3)(A) of the Social Security Act is amended by striking "an eligible State" and inserting "a needy State".

B. RESPONSIBILITY FOR ADMINISTERING CONTINGENCY FUND.

Problem: Sec. 403(b)(7)(B) of the Social Security Act defines "Secretary" as the Secretary of the Treasury for purposes of the contingency fund under sec. 403(b). This definition appears to be an inappropriate leftover from previous versions of the bill which would have given the Secretary of the Treasury a larger role in administration of TANF. While the Secretary of HHS administers the TANF program as enacted, this definition will require State requests for money from the contingency fund to be sent to the Treasury Secretary, and would also require the Secretary of the Treasury, rather than of HHS, to make the annual report to the Congress on the status of the fund.

Proposed amendment:

() DEFINITION OF "SECRETARY" FOR PURPOSES OF CONTINGENCY FUND.--Section 403(b)(7) is amended--

(1) by striking "(7) OTHER TERMS DEFINED.--As used in this subsection:

"(A) STATE.--The term" and inserting the following:

"(7) STATE.--As used in this subsection, the term"; and

(2) by striking subparagraph (B).

4. AVAILABILITY OF TANF LOANS TO INDIAN TRIBES.

Problem: Sec. 412(f)(1) of the Social Security Act, which specifies that Indian tribes are subject to the penalty under sec. 409(a)(6) for failure to repay a loan under sec. 406, indicates Congress' intent that the tribes be eligible for these loans. However, sec. 406 speaks only in terms of loan-eligible States. The following amendment to sec. 406 would provide explicitly for Indian tribes' eligibility for loans:

Proposed amendment:

() AVAILABILITY OF FEDERAL LOANS TO INDIAN TRIBES.--Section 406(a) is amended by adding after paragraph (2) the following:

"(3) ELIGIBILITY OF INDIAN TRIBES.--For purposes of this section--

"(A) the term 'loan-eligible State' includes an Indian tribe receiving a family assistance grant under section 412(a); and

"(B) the reference in subsection (c) to section 403(a) shall be considered, in the case of an Indian tribe, to be a reference to section 412(a).".

5. STATE OPTION TO EXCLUDE INDIVIDUALS SUBJECT TO TRIBAL WORK PROGRAMS FROM STATE PARTICIPATION RATES.

Problem: Sec. 407(b)(4) of the Social Security Act gives States the option whether to include, in their work participation rate calculations, individuals receiving assistance under a Tribal TANF plan under sec. 412(a)(1). States do not have the same flexibility to exclude from their participation rate calculations individuals who are in the State TANF program but are served by a tribal work program under sec. 412(a)(2).

Under sec. 412(a)(2), tribes that had JOBS programs in 1994 and 1995 remain eligible for grants for tribal work programs, regardless of whether they operate a TANF program. These tribal work programs are subject to neither the old JOBS rules nor the new TANF work rules. Because individuals served by tribal work

programs may not be participating in work activities at the same rate as those in State programs, and because States will face special obstacles in engaging tribal members in State work programs, it would be reasonable to give States the option to exclude them from the State participation rate calculation.

This amendment would not affect work requirements applicable to individuals.

Proposed amendment:

() STATE OPTION TO EXCLUDE INDIVIDUALS SUBJECT TO TRIBAL WORK PROGRAMS FROM STATE PARTICIPATION RATES.--Section 407(b)(4) of the Social Security Act is amended--

() in the caption, by inserting "OR WORK PROGRAM" after "FAMILY ASSISTANCE PLAN"; and

(2) by adding "or work program" before "approved under section 412".

6. AMENDMENTS TO MANDATORY WORK REQUIREMENTS.

A. INCONSISTENT STANDARDS FOR ENGAGEMENT IN WORK.

Problem: The provisions in sec. 407(c) of the Social Security Act for determining rate of engagement in work use different terminology for all families ("participating in work activities") and for 2-parent families ("making progress in work activities"). While the statute provides no guidance on the difference in meaning of the two terms, "making progress" suggests a higher standard than "participating". It is unclear why there should be a different participation standard for 2-parent families.

Proposed amendment:

() DETERMINATION OF ENGAGEMENT IN WORK.--Section 407(c)(1)(B) of the Social Security Act is amended in clauses (i) and (ii) by striking "making progress" each place it appears and inserting "participating".

B. PENALTIES AGAINST INDIVIDUALS: INCONSISTENT PROVISIONS.

Problem: Sec. 407(e)(1) of the Social Security Act provides for penalties against individuals in families assisted under TANF who refuse to "engage in work". The exception in sec. 407(e)(2) for single custodial parents unable to obtain child care, however, speaks of "a refusal...to work". The language of sec. 407(e)(2) should be conformed, to make clear that both the rule and the exception are referring to the same work activities.

Proposed amendment:

() PENALTIES AGAINST INDIVIDUALS: CONSISTENCY OF TERMINOLOGY.--Section 407(e)(2) of the Social Security Act is amended by striking "to work" and inserting "to engage in work".

7. ASSIGNMENT OF SUPPORT RIGHTS: CLARIFICATION.

Problem: Sec. 408(a)(3) of the Social Security Act (which provides the rule as to what support rights must be assigned to the State as a condition of receiving assistance under title IV-A) uses the date the family "leaves the program" as the cutoff date for such assignment. Other provisions which interact with this provision (notably sec. 457 of the Social Security Act, which provides different distribution rules for assigned and unassigned support) refers instead (as has long been common usage) to the date the family "ceases to receive assistance under the program". The variant language should be conformed to the language used elsewhere, to ensure that these provisions interact as intended.

Proposed amendment:

() Section 408(a)(3) of the Social Security Act is amended--

(1) in subparagraph (A), in the matter preceding clause (i), by striking "the date the family leaves the program, which assignment, on and after the date the family leaves the program" and inserting "the date the family ceases to

receive assistance under the program, which assignment, on and after such date";

(2) in subparagraph (A)(ii), and in subparagraph (B), by striking "leaves the program" each place it appears and inserting "ceases to receive assistance under the program".

8. TIME LIMIT ON BENEFITS: DISREGARD OF CERTAIN ASSISTANCE TO RESERVATION RESIDENTS.

Problem: In recognition of high jobless rates and lack of employment opportunities in Indian country, sec. 408(a)(7)(D) of the Social Security Act provides for disregard, in determining the 60-month time limit on TANF assistance to a family, of assistance to residents of Indian reservations where specified conditions are met. The provision, as drafted, presents various difficulties:

- (1) It requires reliance on data that may not be available. Neither the Interior Department's Bureau of Indian Affairs (BIA) nor any other federal agency collects monthly data on the population or labor force status of persons in reservation areas or in Alaska Native villages.
- (2) It does not apply to TANF programs operated by tribes, but only to State programs.
- (3) Its narrow reference to "Indian reservation" excludes important areas within the standard definition of Indian country (e.g., former reservation areas in Oklahoma).
- (4) Its 1,000-person population threshold would have the clearly unintended effect of making the disregard inapplicable to residents of most Alaska Native villages, as well as a large majority of Indian reservation areas, notably many small reservations in remote areas where unemployment is particularly severe.

Proposed amendments:

() TIME LIMIT ON BENEFITS: DISREGARD OF CERTAIN ASSISTANCE TO RESERVATION RESIDENTS.--Section 408(a)(7)(D) is amended to read as follows:

"(D) DISREGARD OF MONTHS OF ASSISTANCE RECEIVED BY ADULT WHILE LIVING ON TRIBAL LAND IN INDIAN COUNTRY, OR IN AN ALASKA NATIVE VILLAGE, WITH 50 PERCENT UNEMPLOYMENT.--

"(i) DISREGARD REQUIREMENT.--In determining the number of months for which an adult has received assistance under the State or tribal program under this part, the State or tribe shall disregard any month during which the adult lived on an Indian reservation, in Indian country occupied by a tribe, or in an Alaska Native village, if the most reliable Federal data available with respect to such month (or a period including such month) indicate that at least 50 percent of the Indian adults living on such Indian reservation, in Indian country occupied by such tribe, or in such village, were not employed.

"(ii) DEFINITION.--For purposes of this subparagraph, 'Indian country' has the meaning given such term in section 1151 of title 18 of the United States Code."

9. REQUIREMENT TO MAINTAIN LEVEL OF HISTORIC EFFORT.

A. DEFINITION OF QUALIFIED STATE EXPENDITURES: BENEFITS FOR ALIENS.

Problem: Sec. 409(a)(7)(B)(i)(III) of the Social Security Act permits States, in measuring current against historic State expenditures for assistance to "eligible families", to include families that would be eligible for such assistance but for the application of sec. 402 of PRWORA. The proposed amendment instead would count expenditures for families of lawfully present aliens that would be eligible for State AFDC or TANF benefits but for title IV of PRWORA.

(1) Reference to title IV of PRWORA. The reference to sec. 402 makes no sense: sec. 402(a) is completely irrelevant (it concerns aliens' eligibility for SSI and food stamps), and sec. 402(b) does not bar TANF eligibility, but rather gives States the option whether to provide TANF benefits to qualified aliens.

The conference report on PRWORA (H.Rept. 104-725) indicates that Congress intended to permit States to count toward maintenance of effort (MOE) all expenditures for aliens made ineligible for benefits under title IV-A of the Social Security Act by the provisions of title IV of PRWORA (subject to item (2) below). The report states, with respect to proposed sec. 409(a)(7) of the Social Security Act:

"Qualified State expenditures that count toward the 75 percent (or 80 percent) spending requirement are all State-funded expenditures under all State programs that provide any of the following assistance to families eligible for family assistance benefits (and those no longer eligible because of the 5-year time limit or ineligible because of the Act's treatment of noncitizens)...."

(2) Limitation to aliens lawfully present. Title IV-A of the Social Security Act limited AFDC eligibility to aliens who were "permanently residing under color of law" (PRUCOL). The TANF program under title IV-A as amended contains no such restriction; thus (depending on the terms of a given State plan), families who would be eligible for TANF but for application of title IV of PRWORA could include all alien families, whether present legally or illegally. It seems unlikely that Congress intended to permit States to count toward their TANF MOE aliens not lawfully present who would have been ineligible for AFDC.

Proposed amendment:

() DEFINITION OF QUALIFIED STATE EXPENDITURES: BENEFITS FOR ALIENS.--Section 409(a)(7)(B)(i)(III) is amended--

(1) by striking ", and families" and inserting ", families"; and

(2) by striking "section 402" and inserting ", and families of aliens lawfully present in the United States that would be eligible for such assistance but for the application of title IV".

B. REDUCTION FOR FAILURE TO MEET MOE REQUIREMENT:
APPLICABLE PERCENTAGE.

Problem: Sec. 409(a)(7)(B)(ii) specifies the percentage reduction applicable for a State's failure to meet the MOE requirement. Two erroneous references require correction. (1) The provision reduces the amount of the reduction by 5 percent if a State meets work requirements; the reference to the applicable requirements should be to sec. 407, rather than sec. 407(a), because not all work requirements are in subsection (a). (2) Previous versions of the legislation permitted an additional 8 percent reduction for other factors. The provision as enacted provides only for the 5 percent reduction, but retains a reference to the eliminated 8 percent reduction.

Proposed amendment:

() REDUCTION FOR FAILURE TO MEET MOE REQUIREMENT:
APPLICABLE PERCENTAGE.--Section 409(a)(7)(B)(iii) of the Social Security Act, as added by sec. 103(a) of PRWORA, is amended--

(1) by striking "section 407(a)" and inserting "section 407"; and

(2) by striking all that follows "75 percent)" and inserting a period.

C. DEFINITION OF HISTORIC STATE EXPENDITURES.

Problem: Sec. 409(a)(7)(B)(iii) does not specify the source of data to be used to calculate historic State expenditures. However, the data being used by HHS to calculate FY 1994 expenditures are the State expenditure data that correspond to the FY 1994 Federal payment data that were used to calculate State family assistance grants under TANF. Using the same data is equitable and necessary to establish a fixed and consistent maintenance of effort level.

Proposed amendment:

() DEFINITION OF HISTORIC STATE EXPENDITURES.-- Section 409(a)(7)(B)(iii) is amended--

(1) by striking the period at the end of subclause (bb) and inserting a comma; and

(2) by striking "Such term" and inserting "as determined by the Secretary using the information sources specified in subparagraphs (C)(i) and (D)(ii) of section 403(a)(1). Such term".

D. DEFINITION OF EXPENDITURES BY THE STATE.

Problem: Sec. 409(a)(7) of the Social Security Act (penalty for failure to maintain a certain level of historic State effort) compares "qualified State expenditures" for specified purposes for the current fiscal year against "historic State expenditures" for these purposes.

The intent of this provision is to compare only the State share of "qualified" and "historic" expenditures for specified purposes, disregarding both Federal contributions under title IV-A and State funds expended as a condition of Federal matching under TANF or programs other than title IV-A. Two changes are needed to clause (iv) of sec. 409(a)(7)(B) to conform the language to the congressional intent:

(1) It is our understanding that, for purposes of determining "qualified" State expenditures, Congress intended the MOE calculation to exclude State expenditures under TANF that are

required as a condition of receiving Federal matching funds (such as for contingency fund payments). As written, however, some might misread this provision as also excluding the State share of expenditures under AFDC from the determination of "historic" State expenditures during the base period. This amendment ensures the provision is not misread. The revised subclause (III) applies only to title IV-A programs. State spending in matching programs outside title IV-A is covered by subclause (IV).

(2) The final sentence of subclause (iv) provides an explicit exception to the policy in (1) by allowing child care expenditures up to a base amount (reflecting FY 1994 or 1995 State expenditures) to be counted for the purpose of both TANF MOE and the MOE requirement in section 418(a)(2), related to State eligibility for the "new" Federal child care matching funds. We also propose a clarifying amendment to this sentence to reflect the fact that Federal payments for child care (and State expenditure and matching requirements) under sec. 418(a) of PRWORA can be considered to be "under" both the TANF and the CCDBG programs.

Proposed amendment:

() DEFINITION OF EXPENDITURES BY THE STATE.--

(1) TREATMENT OF STATE MATCHING FUNDS.--Section

409(a)(7)(B)(iv) is amended--

(A) in subclause (III), to read as follows:

"(III) any State funds which are expended as a condition of receiving Federal funds under the program of Temporary Assistance to Needy Families under this part or under section 418;"; and

(B) in the sentence following subclause (IV), by inserting "(III) or" before "(IV)".

(2) CONFORMING AND TECHNICAL AMENDMENTS.--Section

409(a)(7)(B)(iv) is amended in the second sentence--

(A) by striking "an amount equal to";

(B) by striking "expenditures in" and inserting "expenditures for"; and

(C) by striking "that equal" and inserting "that equals".

10. PENALTIES FOR NONCOMPLIANCE WITH CSE REQUIREMENTS.

Problem: Title III of PRWORA amends the CSE program under title IV-D of the Social Security Act to focus audits, incentives and penalties on accurate and reliable data and results-oriented measures outcomes rather than on compliance with procedural requirements. Sec. 409(a)(8) of the Social Security Act (penalties for noncompliance with title IV-D requirements) fails to reflect these changes, and instead is modeled on the old approach under section 403(h) of the Social Security Act. Unless sec. 409(a)(8) is revised, States will continue to be subject to sanctions for requirements which may have little bearing on actual performance outcomes.

Proposed amendments:

() PENALTIES FOR NONCOMPLIANCE WITH CSE REQUIREMENTS.--

(1) CONFORMING TITLE IV-A PENALTIES TO TITLE IV-D PERFORMANCE-BASED STANDARDS.--Section 409(a)(8) of the Social Security Act is amended to read as follows:

"(8) NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH PERFORMANCE REQUIREMENTS OF PART D.--

"(A) IN GENERAL.--If the Secretary finds, with respect to a State's program under part D in a fiscal year beginning on or after October 1, 1997--

"(i)(I) on the basis of data submitted by a State pursuant to section 454(15)(B), or on the basis of the results of a review conducted under section 452(a)(4),

that the State program failed to achieve the paternity establishment percentages (as defined in section 452(g)(2)), or to meet other performance measures that may be established by the Secretary, or

"(II) on the basis of an audit or audits of such State data conducted pursuant to section 452(a)(4)(C)(i), that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; and

"(ii) that, with respect to the succeeding fiscal year--

"(I) the State failed to take sufficient corrective action to achieve the appropriate performance levels as described in subparagraph (A)(i), or

"(II) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable,

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program is in compliance with such performance requirement, shall be reduced by the percentage specified in subparagraph (B).

"(B) AMOUNT OF REDUCTIONS.--The reductions required under subparagraph (A) shall be--

"(i) not less than 1 nor more than 2 percent,

"(ii) not less than 2 nor more than 3 percent, if the finding is the second consecutive finding made pursuant to subparagraph (A), or

"(iii) not less than 3 nor more than 5 percent, if the finding is the third or a subsequent consecutive such finding.

"(C) DISREGARD OF NONCOMPLIANCE OF A TECHNICAL NATURE.--For purposes of this subsection and section 452(a)(4), a State determined as a result of an audit to have submitted incomplete or unreliable data pursuant to section 454(15)(B) shall be determined to have submitted adequate data if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's performance."

(2) CONFORMING AMENDMENTS.--

(A) Section 452(d)(3)(A) of the Social Security Act is amended by striking all that follows "for purposes of" and inserting "section 409(a)(8), to be in compliance with the performance requirements of this part; and".

(B) Section 452(g)(1) of the Social Security Act is amended by striking "section 403(h) of this title" and inserting "section 409(a)(8)".

(3) EFFECTIVE DATE: CONFORMED TO CHANGE IN AUDIT REQUIREMENTS.--The amendments made by this [subsection] shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

11. EXCLUSIONS FROM REASONABLE CAUSE PENALTY EXCEPTIONS.

Problem: Section 409(b)(1) of the Social Security Act prohibits the imposition of a penalty on a State under section 409(a) if the Secretary finds the State had reasonable cause for failure to comply. Section 409(b)(2) provides that this prohibition does not apply with respect to failures to meet historic State expenditures (sec. 409(a)(7)) or to comply with CSE requirements (sec. 409(a)(8)).

The Explanatory Statement of Managers in the conference report for PRWORA stated the conferees' intent to make the reasonable cause exception unavailable for penalties under paragraphs (6) (failure to repay the loan fund), (7) (failure to meet historic State expenditures), and (12) (failure to replace grant reductions caused by penalties); the Explanatory Statement makes no mention of paragraph (8) (CSE requirements).

The following amendment would make the good cause exception unavailable in all cases where Congressional intent to do so is indicated in either statutory or report language.

Proposed amendment:

() EXCLUSIONS FROM REASONABLE CAUSE PENALTY EXCEPTIONS.--

Section 409(b)(2) of the Social Security Act is amended--

(1) by striking "(2) EXCEPTION.--" and inserting "(2) EXCEPTIONS.--"; and

(2) by striking "paragraph (7) or (8)" and inserting "paragraph (6), (7), (8), or (12)".

12. PENALTIES NOT AVOIDABLE THROUGH CORRECTIVE COMPLIANCE PLANS.

Problem: Sec. 409(c)(4) of the Social Security Act makes corrective compliance plans unavailable to avoid a penalty under sec. 409(a)(6) (for failure to repay a loan). We believe there are at least two additional areas where the application of a corrective compliance plan and penalty forgiveness seem inconsistent with the penalty provisions as a whole:

- o Sec. 409(a)(1)(B) (5 percent enhanced penalty for intentional use of grant funds in violation of title IV-A). This penalty is imposed only after an audit finds such violative use and the State fails to prove to the Secretary that the violation was unintentional. Further, it is subject to the reasonable cause exception under sec. 409(b). In any case where imposition of this penalty is nevertheless found to be justified, it does not seem reasonable to permit the State to avoid the penalty by corrective action.
- o Sec. 409(a)(12) (penalty for failure to expend additional State funds to replace penalty grant reductions). The penalties underlying this penalty would have been taken after a determination that reasonable cause and corrective compliance exceptions were either inapplicable or unavailable. It does not seem reasonable that a penalty imposed to enforce other penalties should be forgiven through a corrective compliance plan.

Proposed amendment:

() PENALTIES NOT AVOIDABLE THROUGH CORRECTIVE COMPLIANCE PLANS.--Section 409(c)(4) of the Social Security Act is amended--

(1) by striking the caption and inserting

"EXCEPTIONS.--"; and

(2) by striking "subsection (a)(6)" and inserting

"paragraph (1)(B), (6), or (12) of subsection (a)".

13. DATA COLLECTION AND REPORTING.

Problem: Sec. 411(a)(1)(A) of the Social Security Act requires States to collect and report disaggregated case record

information. Sec. 411(a)(1)(B) provides that States may comply with this requirement by submitting an estimate using scientifically acceptable sampling methods. Use of the term "estimate" suggests that data could be collected and reported on an aggregated basis.

The proposed amendment clarifies that samples are allowable, but that actual disaggregated case record information must be provided.

Proposed amendment:

() DATA COLLECTION: SAMPLING.--Section 411(a)(1)(B) of the Social Security Act is amended--

(1) in the heading, by striking "ESTIMATES" and inserting "SAMPLES"; and

(2) in clause (i), by striking "an estimate which is obtained" and inserting "disaggregated case record information on a sample of families selected".

14. GRANTS TO INDIAN TRIBES THAT RECEIVED JOBS FUNDS.

Problems: (1) Sec. 412(a) of the Social Security Act as drafted would require eligible tribes to operate work programs, even if some of them would prefer not to. Such a requirement was surely not intended.

(2) Sec. 412(a)(2)(C) states that these grant funds are to be used "to make work activities available to members of the Indian tribe". This language leaves unclear whether (or the extent to which) the tribe has the same discretion as it has under its basic family assistance grant to define the population served (for example, to include other reservation residents, or other Native Americans in the service area). We believe the Congress would wish to allow tribes to define the population they will serve under both TANF and the work activities program, in accord with tribal sovereignty and self-determination.

(3) The amount appropriated under sec. 412(a)(2) is higher than can be used even if all eligible tribes seek funding, since one tribe that received FY 1994 funds included in the funding base did not operate a program in FY 1995 and is thus ineligible.

Proposed amendments:

() GRANTS TO INDIAN TRIBES THAT RECEIVED JOBS FUNDS.--

(1) TRIBAL OPTION TO OPERATE PROGRAM.--Section 412(a)(2)(A) is amended--

(A) by striking "to each eligible Indian tribe" and inserting a comma; and

(B) by striking "2002" and inserting "2002, to each eligible Indian tribe proposing to operate a program described in subparagraph (C),".

(2) USE OF GRANT.--Section 412(a)(2)(C) is amended by striking "available" and all that follows and inserting "available. The Indian tribe shall specify the population and service area or areas to be served by such program."

(3) APPROPRIATION.--Section 412(a)(2)(D) is amended by striking "\$7,638,474" and inserting "such sums as necessary (not to exceed \$7,633,287)".

15. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

A. METHODS AVAILABLE FOR CONDUCT OF RESEARCH.

Problem: Sec. 413(a) of the Social Security Act, by omitting standard language authorizing the Secretary to conduct the required research "directly or through grants, contracts, or interagency agreements", makes the use of grants and interagency agreements unavailable, thus seriously hampering accomplishment of the required activities.

Proposed amendment:

() METHODS AVAILABLE FOR CONDUCT OF RESEARCH.--Section 413(a) of the Social Security Act is amended by striking "The Secretary" and inserting "The Secretary, directly or through grants, contracts, or interagency agreements,".

B. FUNDING OF PREVIOUSLY AUTHORIZED DEMONSTRATIONS.

Problem: Sec. 413(h)(1)(D) of the Social Security Act authorizes the Secretary to continue funding for operation and evaluation of demonstrations relating to title IV-A that were in effect or approved as of September 30, 1995. We believe this date originated in the prior vetoed bill, in which the TANF program would have taken effect October 1, 1995. Changing the cutoff date to August 22, 1996, the date of enactment of PRWORA, would make it more consistent with other effective dates relating to the title IV-A program.

Proposed amendment:

() FUNDING OF PREVIOUSLY AUTHORIZED DEMONSTRATIONS.--

Section 413(h)(1)(D) of the Social Security Act, as added by section 103(a) of PRWORA, is amended by striking "September 30, 1995" and inserting "August 22, 1996".

C. STATE CHILD POVERTY REPORTS.

Problems: (1) Deadline for State reports. Sec. 413(i)(1) of the Social Security Act requires States to report their child poverty rates 90 days after enactment of PRWORA. In order to provide reliable information, States need longer than 90 days. The proposed amendment gives the States until November 30, 1997, to make the first annual report.

(2) Factors considered in methodology. HHS cannot implement this provision as written, because data on one of the three factors specified in the methodology are not available. The proposed amendment would give HHS flexibility to establish the methodology to be used by States to determine child poverty rates. HHS wants to work together with States to develop a valid methodology which

incorporates reliable and current data which would be available on an economical and consistent basis.

Proposed amendments:

() STATE CHILD POVERTY REPORTS.--

(1) DUE DATE FOR INITIAL REPORT.--Section 413(i)(1) of the Social Security Act is amended by striking "90 days after the date of the enactment of this part" and inserting "November 30, 1997".

(2) METHODOLOGY.--Section 413(i)(5) of the Social Security Act is amended by striking "shall take into account factors including" and inserting "may take into account factors such as".

16. DEFINITION OF INDIAN TRIBES IN ALASKA.

Problem: Sec. 419(4)(B) of the Social Security Act defines "Indian tribe" in Alaska, for purposes of TANF, to mean specified Alaska Native Corporations rather than the Alaska Native villages which are otherwise treated as tribes under Federal law. This choice of definition creates two problems.

Significantly, the current definition, by including entities that are not Indian tribes and excluding existing Federally recognized Indian tribes, falls outside the line of authority recognizing the special political relationship between the U.S. Government and Indian tribes and conflicts with the principle of government-to-government relations with Indian tribes. As a result, this definition raises potential litigation and policy concerns. The amended definition is intended to reduce the risk of litigation on this issue.

In addition, application of this variant definition to the portion of CCDBG funding transferred from the TANF program under sec. 418 (as added by sec. 603(b) of PRWORA) will make impossible, in the case of Alaska Natives, operation of a single unified child care program under CCDBG.

Proposed amendment:

() DEFINITION OF INDIAN TRIBES IN ALASKA.--Section 419A of the Social Security Act (as added by section 103(a) of PRWORA [and redesignated by the amendment relating to sec. 421 of PRWORA, above]) is amended in paragraph (4) by striking all that follows the caption and inserting "The terms 'Indian', 'Indian tribe', and 'tribal organization' have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).".

Sec. 103(b): TANF grants to territories:**1. FEDERAL PAYMENTS FOR TANF PROGRAMS IN TERRITORIES.**

Problems: Because of the ceilings on Federal TANF payments to territories under sec. 1108 of the Social Security Act, certain payments intended to be in addition to the basic grant would be unavailable. Without them, the TANF program will not operate in the territories as intended. Amendments are needed to allow payments to territories above the sec. 1108 ceilings for bonuses under sec. 403 for high performance or reduction of illegitimacy, loans under sec. 406, and state-initiated evaluations under sec. 413(f).

Proposed amendments:

() CERTAIN PAYMENTS TO TERRITORIES NOT SUBJECT TO CEILING.--Section 1108(a) of the Social Security Act is amended--

(1) by indenting the matter following the heading two
ems;

(2) by striking "Notwithstanding any other provision of this Act" and inserting the following:

"(1) IN GENERAL.--Notwithstanding any other provision of this Act, except as provided in paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) EXCEPTIONS.--The following payments to a territory under part A of title IV shall not be subject to the ceiling under this section:

"(A) BONUS FOR REDUCTION OF ILLEGITIMACY.--Any bonus payment under section 403(a)(2).

"(B) HIGH PERFORMANCE BONUS.--Any bonus payment under section 403(a)(4).

"(C) LOAN.--Any loan payment under section 406.

"(D) STATE-INITIATED EVALUATION.--Any payment pursuant to section 413(f) for evaluation of the territory's program under such part A of title IV.

2. MULTIPLE TERRITORIAL MAINTENANCE OF EFFORT REQUIREMENTS.

Problem: The territories are subject to three separate maintenance of effort (MOE) requirements for TANF:

- (1) sec. 409(a)(7) of the Social Security Act (maintenance of historic State effort under title IV-A (as of FY 1994));
- (2) sec. 1108(b)(1)(B)(ii) (additional matching grant conditioned on exceeding FY 1995 expenditures); and
- (3) sec. 1108(e) (territorial ceiling amount for all assistance programs (Aid to the Aged, Blind, and Disabled (AABD) as well as TANF) reduced by the amount, if any, by which expenditures in the previous fiscal year are exceeded by FY 1995 expenditures).

It is not clear that Congress intended that three such requirements apply to the territories. If one were to be

deleted, we would recommend deletion of item (3), as in the following proposed amendment.

Proposed amendment:

() ELIMINATION OF THIRD MAINTENANCE OF EFFORT REQUIREMENT FOR TERRITORIES.--Section 1108(e) is repealed.

Sec. 104: services provided by charitable, religious, or private organizations:

1. CLARIFICATIONS CONCERNING RELIGIOUSLY AFFILIATED PROVIDERS.

Problem: The Supreme Court has held that the Constitution does not preclude most organizations with religious affiliations from participating equally with other private organizations in public welfare programs, as long as such organizations do not engage in religious activities in using public funds. However, the Court has held that the government may not enlist pervasively sectarian organizations in administering welfare programs paid for with public funds.

Sec. 104(c) explicitly provides that TANF programs provided through religious organizations must be implemented in a manner consistent with the Establishment Clause of the Constitution. However, other provisions of sec. 104 and its legislative history could be read to be inconsistent with the constitutional limits. We recommend amending sec. 104 to clarify that it does not compel or allow States to provide TANF benefits through pervasively sectarian organizations, either directly or through vouchers redeemable with these organizations. In addition, we suggest an amendment to clarify that State funds received by an organization for the purposes of providing TANF services and benefits may not be used for sectarian purposes.

Section #104]

Proposed amendments:

() CLARIFICATIONS CONCERNING RELIGIOUSLY AFFILIATED PROVIDERS.--Section 104 of PRWORA is amended--

(1) in the heading, by striking "RELIGIOUS" and inserting "RELIGIOUSLY AFFILIATED";

(2) in subsection (a)(1)(A), by striking "religious" and inserting "religiously affiliated";

(3) in subsection (b)--

(A) by striking "to contract with religious organizations, or to allow religious organizations to accept" and inserting "to contract with religious organizations that are not pervasively sectarian, or to allow such religious organizations to accept; and

(B) by striking "religious character" and inserting "religious affiliation";

(4) in subsection (c)--

(A) by striking "religious organizations are eligible" and inserting "religious organizations that are not pervasively sectarian are eligible"; and

(B) by striking "religious character" and inserting "religious affiliation";

(5) in subsection (d)(1)--

(A) by striking "A religious organization" and inserting "A non-pervasively sectarian religious organization"; and

(B) by striking "the definition, development, practice, and expression of its religious beliefs" and inserting "its religious affiliation";

(6) in subsection (d)(2)--

(A) in the matter preceding subparagraph (A)--

(i) by striking "Neither" and inserting "To the extent such organization is not pervasively sectarian and complies with the limitation described in subsection (j), neither"; and

(ii) by striking "a religious organization" and inserting "such organization"; and

(B) in subparagraph (B), by inserting "all" before "religious";

(7) in subsection (e)(1), by striking "religious character" and inserting "religious affiliation";

(8) in subsection (f), by striking "its participation in, or receipt of funds from" and inserting "the participation of a non-pervasively sectarian affiliate in, or the receipt by such affiliate of funds from";

(9) in subsection (g), by striking "a religious organization" and inserting "an institution or organization";

(10) in subsection (h)(1), by inserting "described in subsection (b)" after "religious organization"; and

(11) in subsection (j), by striking "shall be expended for sectarian worship" and inserting "shall be used or expended for any sectarian activity, including sectarian worship".

Sec. 106: report on data processing:

1. CLARIFYING AMENDMENT.

Problem: Sec. 106(a)(1) includes a parenthetical reference which has no substantive effect but which is confusing. We believe it may be a leftover from H.R. 4, the vetoed predecessor bill, which would have taken effect on the date indicated.

Proposed amendment:

() REPORT ON DATA PROCESSING: CLARIFYING AMENDMENT.--

Section 106 of PRWORA is amended by striking "(whether in effect before or after October 1, 1995)".

Sec. 108: conforming amendments to Social Security Act.

1. AMENDMENTS TO TITLE IV-D.

Sec. 108(c) of PRWORA makes conforming amendments to title IV-D (child support enforcement) of the Social Security Act. Various necessary conforming amendments were either flawed or omitted altogether. Corrections are needed as follows:

A. PERFORMANCE STANDARDS FOR STATE PATERNITY ESTABLISHMENT PROGRAMS: DELETION OF OBSOLETE LANGUAGE.

Problems: The revision of the final sentence in sec. 452(g)(2), intended to conform to the changes made by sec. 333 of PRWORA, is incomplete. Sec. 333 of PRWORA transfers to the State IV-D agency (rather than the IV-A and IV-E agencies) the responsibility for determining whether custodial parents are cooperating with efforts to establish paternity and secure support. The conforming amendment in sec. 108(c)(8) correctly adds language referring to the IV-D agency determination, and deletes obsolete language referring to cooperation and good cause determinations by the IV-A agency, but fails to delete the obsolete language referring to this determination by the IV-E agency.

[NOTE: The decision by the drafters of PRWORA to place the first of the needed conforming amendments in title I is odd, since the most closely related substantive amendments are in title III.

The choice may explain why the second needed conforming amendment (which relates to title IV-E rather than IV-A) was overlooked.]

Proposed amendment:

() PERFORMANCE STANDARDS FOR STATE PATERNITY ESTABLISHMENT PROGRAMS: DELETION OF OBSOLETE LANGUAGE.--Section 452(g)(2) of the Social Security Act, as amended by section 108(c)(8) of PRWORA, is further amended in the final sentence by striking all that follows "section 454(29)" and inserting a period.

B. DISTRIBUTION FORMULA: AMENDMENT CONCERNING MEDICAID CASES TO CONFORM TO CHANGE MADE CONCERNING TITLE IV-A CASES.

Problem: Sec. 302 of PRWORA makes amendments to sec. 457 of the Social Security Act intended to establish a comprehensive set of rules for distribution of all child support collections by the State IV-D agency, and specifying the different rules applicable to collections on behalf of families currently receiving AFDC or TANF assistance under title IV-A or medical assistance (Medicaid) under title XIX, families who previously received such assistance, and families who have never received such assistance. The amendments to sec. 457 required conforming amendments to sec. 454(5) to delete language stating that the rules under sec. 457 do not apply to families losing eligibility for cash or medical assistance. The conforming amendment concerning families losing cash assistance was made by sec. 108(c)(11)(B) of PRWORA, but the corresponding amendment concerning families losing medical assistance was not made.

[NOTE: As with the previous item, the location of the first of the needed amendments in title I of PRWORA is odd, since the most closely related substantive amendments are in title III. The choice may explain why the second needed conforming amendment (involving title XIX rather than title IV-A) was overlooked.]

Proposed amendment:

() DISTRIBUTION FORMULA: AMENDMENT CONCERNING MEDICAID CASES TO CONFORM TO CHANGE MADE CONCERNING TITLE IV-A CASES.-- Section 454(5), as amended by section 108(c)(11) of PRWORA, is

amended in subparagraph (B) by striking ", except that this clause" and all that follows and inserting a semicolon.

C. ASSIGNMENT OF SUPPORT RIGHTS TO STATES: CORRECTION OF REFERENCES.

Problem: Title I of PRWORA, in rewriting title IV-A of the Social Security Act in its entirety, relocates from sec. 402(a)(26) to sec. 408(a)(3) the requirement to assign support rights to the State as a condition of receiving assistance under the State IV-A program. Sec. 108(c) of PRWORA fails to make (or make completely) some of the conforming changes required by this revision.

Proposed amendments:

() SUPPORT OBLIGATION AS OBLIGATION TO STATE: INSERTION OF OMITTED SECTION REFERENCE.--Section 456(a)(1) of the Social Security Act, as amended by sec. 108(c)(13) of PRWORA, is amended by inserting "pursuant to section 408(a)(3)" after "assigned to the State".

() TAX REFUND OFFSET: CORRECTION OF REFERENCE.--Section 464(a)(1) of the Social Security Act is amended by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(3)".

2. AMENDMENTS TO TITLE IV-E: UNIFORM METHODOLOGY FOR DETERMINING MEDICAID AND FOSTER CARE/ADOPTION ASSISTANCE ENTITLEMENTS.

Problem: PRWORA, in eliminating individual entitlements under TANF, substitutes AFDC entitlement in a previous year as a basis for entitlement to title IV-E foster care or adoption assistance (sec. 108(d) of PRWORA) and to Medicaid under title XIX (sec. 1931 of the Social Security Act, added by sec. 114(a) of PRWORA). However, the two standards are not identical: they use different previous years for eligibility standards. These discrepancies place on States the onerous and unnecessary burden of calculating two different eligibility standards.

Proposed amendments:

() ELIGIBILITY FOR FOSTER CARE/ADOPTION ASSISTANCE: BASE YEAR.--The following provisions are amended by striking "June 1, 1995" each place it appears and inserting "July 16, 1996":

(1) section 470, as amended by section 108(d)(1)(B) of PRWORA;

(2) section 472(a) (in the matter preceding paragraph (1), and in paragraphs (4)(A) and (4)(B)(ii)), as amended by section 108(d)(3);

(3) section 472(h)(1), as amended by section 108(d)(4) of PRWORA;

(4) section 473(a)(2) (in subparagraphs (A)(i), (B)(i), and (B)(ii)(II)), as amended by section 108(d)(5) of PRWORA: and

(5) section 473(b)(1), as amended by section 108(d)(6) of PRWORA.

Sec. 115: denial of assistance and benefits for certain drug-related convictions:

1. APPLICATION OF PROVISION ONLY TO CONDUCT OCCURRING BEFORE ENACTMENT.

Problem: Sec. 115 of PRWORA makes permanently ineligible for TANF or food stamp benefits individuals convicted of certain drug-related felonies, unless the State opts out of or limits this restriction. The provision's authors apparently intended to avoid inconsistency with the constitutional prohibition on laws imposing punishment ex post facto by making the restriction inapplicable to convictions obtained before enactment. But to

avoid this infirmity, the provision must apply only to conduct occurring after enactment.

Proposed amendment:

() DENIAL OF PROGRAM BENEFITS FOR DRUG-RELATED CONVICTION:
APPLICATION ONLY TO CONDUCT AFTER ENACTMENT.--Section 115(d)(2)
of PRWORA is amended by striking "convictions" and inserting
"convictions for criminal conduct that occurred".

Sec. 116: effective dates; transition:

1. REPORTING REQUIREMENTS APPLICABLE TO TRANSITION PERIOD.

Problem: Under sec. 116(a), "old" reporting requirements for titles IV-A and -F are repealed effective July 1, 1997, and "new" requirements do not apply to a State until the later of July 1, 1997, or 6 months after its TANF plan is submitted. There will be no gap in reporting in the case of States that submit a TANF plan by January 1, 1997, since (under sec. 116(b)(1)(A)(ii)(II)) they will be subject to the "old" requirements until the effective date of the "new" requirements. But States submitting TANF plans after January 1, 1997, will be subject to neither "old" nor "new" reporting requirements for up to 6 months (depending on date of submission).

Unless a change is made, the information available to the Secretary for the first annual report to Congress under sec. 411(b) of the Social Security Act will be very deficient, and crucial information on the early implementation of TANF will be missing.

To maintain continuity of State reporting, we recommend requiring States submitting TANF plans after January 1, 1997, to make reports (under either the "old" or "new" rules, at their option) for the period from July 1, 1997, to the applicable effective date of the "new" rules.

Proposed amendment:

() INTERIM REPORTING REQUIREMENTS.--Section 116(a)(2) of PRWORA (as amended by the preceding amendment) is further amended--

(1) in the matter preceding subparagraph (A), by inserting "(but subject to subparagraph (C))" after "Notwithstanding any other provision of this section";

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) DELAYED REPEAL OF REPORTING REQUIREMENTS; STATE OPTION.--Each State that submits to the Secretary after January 1, 1997, a plan described in subparagraph (A) shall, for the period beginning on July 1, 1997, and ending on the date a provision of section 411(a) would otherwise apply to such State pursuant to subparagraph (A) or (B), be subject (at State option) either to such provision of such section 411(a) or to the corresponding provisions of reporting requirements specified in subsection (b)(1)(A)(ii)(II).".

TITLE II--SUPPLEMENTAL SECURITY INCOME

Sec. 202: denial of SSI to fugitive felons, probation and parole violators:

1. ABILITY OF SSA TO CHARGE FOR PROVIDING INFORMATION.

Problem: The phrase "Notwithstanding any other provision of law" in section 1611(e) of the Social Security Act, as amended by section 202(b) of PRWORA, which is meant to allow disclosure of information on fugitive felons or parole violators, will also preclude SSA from charging for the costs of providing information for non-Social Security Act program requests in these cases. The addition of the reference to the Social Security Act will allow SSA to charge for these non-Social Security program requests for information.

Proposed amendment:

() DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS--Section 1611(e) of the Social Security Act (as amended by section 202(b) of PRWORA) is amended by inserting "but subject to section 1106(c) of this Act" after "of 1986".

Sec. 203: treatment of prisoners:

1. INMATES ELIGIBLE FOR SSI PAYMENTS.

Problem: The proposed amendment will correct three problems with the description of inmates in section 1611(e) of the Social Security Act, as added by section 203(a) of PRWORA, with respect to whom SSA will make payments:

The first change would provide that SSA will make payments if the inmate actually received a payment in the month before the first month throughout which the inmate was confined in the institution that notified SSA. This change corrects an inequity in PRWORA which precludes SSA from paying an institution which reports an inmate who is receiving an SSI benefit after the inmate had been confined in another institution which did not report such an individual as an inmate. This could occur when an inmate is

transferred from one institution to another and the first institution did not, for some reason, report to SSA.

The second change clarifies that payment to mental institutions will be made only with respect to those inmates who are confined by reason of a criminal charge. This is accomplished by listing the institutions and cross referencing the provisions of section 202(x)(1)(A) of the Social Security Act. Without this change, SSA would be required to pay public mental institutions for information regarding any of their inmates who are ineligible regardless of the reason for their ineligibility.

The third change corrects an inappropriate reference to "this subparagraph" as the cause of ineligibility and reason for payment to an institution by specifying that payments to an institution will be made only when the Commissioner determines that an individual is ineligible based on information provided by the institution.

Proposed amendment:

() TREATMENT OF PRISONERS.--Section 1611(e)(1)(I)(i)(II) of the Social Security Act (as added by section 203(a)(1) of PRWORA) is amended--

(1) by striking "inmate of the institution who is eligible for" and inserting "individual who receives";

(2) by striking "inmate is in such institution" and inserting "individual is an inmate of the jail, prison, penal institution, or correctional facility, or is confined in the institution as described in section 202(x)(1)(A),"; and

(3) by striking "becomes ineligible for such benefit as a result of the application of this subparagraph" and inserting "who is determined by the Commissioner to be

ineligible for such benefit by reason of confinement based on the information provided by the institution".

2. REFINEMENT IN EXEMPTION FROM PRIVACY ACT REQUIREMENTS.

Problem: Section 1611(e) of the Social Security Act, as added by section 203(a) of PRWORA, provides for an exemption from Privacy Act requirements. The proposed amendment revises the exemption from the Privacy Act by specifying that the exemption applies only to the computer matching provisions of the Privacy Act and by placing the exemption in section 552a of title 5 of the United States Code.

Proposed amendment:

() REFINEMENT OF EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS APPLICABLE TO AGREEMENTS BETWEEN THE COMMISSIONER OF SOCIAL SECURITY AND PENAL INSTITUTIONS.--

(1) AMENDMENT TO THE PRIVACY ACT EXEMPTING AGREEMENTS BETWEEN THE COMMISSIONER OF SOCIAL SECURITY AND PENAL INSTITUTIONS FROM REQUIREMENTS RESPECTING COMPUTER MATCHING.--Section 552a(a)(8)(B) of title 5, United States Code, is amended--

(A) by striking "or" at the end of clause (vi);

(B) by adding "or" at the end of clause (vii); and

(C) by inserting after clause (vii) the following new clause:

"(viii) matches performed by the Commissioner of Social Security using records provided by an institution described in

section 1611(e)(1)(I)(i) of the Social Security Act;".

(2) CONFORMING AMENDMENT.--Section 1611(e)(1)(I)(ii) of the Social Security Act (as added by section 203(a)(1) of PRWORA) is amended by striking "(I)" and all that follows through "(II)".

Sec. 211: definition and eligibility rules:

1. CRITERIA FOR MEDICAL REDETERMINATIONS FOR CHILD SSI RECIPIENTS.

Problem: Under section 211(d) of PRWORA, within 1 year of enactment, SSA is expected to make a medical redetermination of current SSI childhood recipients, whose eligibility may be affected by the changes in the childhood disability eligibility criteria (i.e., the new definition of childhood disability and the elimination of the individualized functional assessment and references to maladaptive behavior in the Listing of Impairments) using the new eligibility criteria.

Current language limits the period for making medical redeterminations to 1 year. There may be some SSI children inadvertently missed during that period. Such children could be discovered during a continuing disability review (CDR) or when reviewing a file for other reasons more than 1 year after enactment. Without clarification, some could argue that cases so discovered would be subject to the medical improvement review standard (MIRS) rather than applying the new childhood disability eligibility criteria. Applying the MIRS could result in the continuation of benefits to a significant number of children who do not meet the new eligibility criteria.

The technical amendment will clarify that SSA has the authority to make redeterminations for applicable children after the 1-year period using the new childhood criteria.

Proposed amendment:

() ELIGIBILITY REDETERMINATIONS FOR CURRENT RECIPIENTS--

Subparagraph (A) of section 211(d)(2) of PRWORA is amended--

(1) in the first sentence, by striking "During the period beginning on the date of the enactment of this Act and ending on the date which is 1 year after such date of enactment, the", and inserting in lieu thereof "The"; and

(2) following the first sentence, by inserting: "The Commissioner shall make every reasonable effort to complete these redeterminations within 1 year after the date of the enactment of this Act.".

Sec. 212: eligibility determinations and continuing disability reviews:

1. CRITERIA FOR MEDICAL REDETERMINATIONS FOR SSI RECIPIENTS ATTAINING AGE 18.

Problem: Under section 1614 of the Social Security Act, as amended by section 212(b) of PRWORA, within 1 year of attainment of age 18, SSA is expected to make a medical redetermination of current SSI childhood recipients using the adult disability eligibility criteria. Current language limits the period for making medical redeterminations to 1 year. There may be some applicable age 18 (or over) recipients discovered after the 1-year period. Such recipients could be discovered during a continuing disability review (CDR) or when reviewing a file for other reasons more than 1 year after their attainment of age 18. Without clarification, some could argue that cases so discovered would be subject to the medical improvement review standard (MIRS) rather than applying the adult disability eligibility criteria. Applying the MIRS could result in the continuation of benefits to a significant number of individuals (after they attain age 18) who had been receiving SSI childhood disability benefits, but may not meet the SSI disabled adult criteria.

The technical amendment will clarify that SSA has the authority to make redeterminations using the adult criteria for applicable age 18 (or over) recipients discovered after the 1-year period.

Proposed amendment:

() DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.--Clause (iii) of section 1614(a)(3)(H) of the Social Security Act, as added by section 212(b)(1) of PRWORA, is amended by striking "eligibility --" through "are age 18 or older." and inserting "individual's eligibility by applying the criteria used in determining initial eligibility for individuals who are age 18 or older. The Commissioner shall make every reasonable effort to complete such redetermination during the 1-year period beginning on the individual's 18th birthday."

2. TIMETABLE FOR CONTINUING DISABILITY REVIEWS FOR LOW BIRTH WEIGHT BABIES.

Problem: Section 212(c) of PRWORA amended Section 1614 (a)(3)(H) by adding clause (iv)(I) to require SSA to perform a CDR if an individual's low birth weight is a contributing factor material to the disability determination, no later than 12 months after the individual's birth. This amendment would avoid the situation where SSA would find an individual eligible based on his or her low birth weight at the age of 9 or 10 months, and then have to initiate a CDR within 2 or 3 months. Without the amendment, SSA would have to perform one CDR by age 12 months and another CDR at a later point in time.

Proposed amendment:

() CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.--Clause (iv)(I) of section 1614(a)(3)(H) of the Social Security Act, as added by section 212(c) of PRWORA, is amended by striking "birth of an individual," and inserting in lieu thereof "month in which the Commissioner makes the determination that the individual is disabled,".

Sec. 213: additional accountability requirements:

1. DEDICATED ACCOUNTS FOR MINORS RECEIVING SSI: PENALTIES FOR MISAPPLICATION OF FUNDS; CLARIFICATION OF TERMS.

Problem: The provision added to section 1631 of the Social Security Act by section 213 of PRWORA provides a penalty when individuals who are their own payees misapply funds in a dedicated savings account by considering the amount so used as the uncompensated value of a disposed resource subject to the provisions of section 1613(c). The welfare reform legislation would have replaced the current section 1613(c) with a provision that established periods of ineligibility for individuals who disposed of resources for less than fair market value. This provision was dropped in conference. Consequently, under current law, if an individual misapplies funds from his own dedicated savings account, SSA would only be required to inform the State agency administering the Medicaid program of the transfer. Under Medicaid law, such a transaction would not be considered a transfer of assets that would require a Medicaid sanction under section 1917 of the Social Security Act. The proposed correction would direct that any amount misapplied from a dedicated savings account by individuals who are their own payees would reduce those individuals' future benefits by an equal amount. This penalty would parallel that imposed on a representative payee who misapplies these funds.

Amending section 1631 to change references from "underpayment" to "past-due benefits" would avoid the unintended effect of requiring--as the structure of the section would require--a distinction to be drawn between two things that refer basically to the same condition. Technically, "underpayment" refers to a condition when the individual has received less than the amount due him. The term should not be used to refer to a benefit payment. The law and regulations use the term only to describe a condition (e.g., "Overpayments and Underpayments" as a title for section 1631(b) and "Underpayments can occur only with respect to a period..." as in 20 CFR 416.536.) When there has been an underpayment of benefits, a payment representing past-due benefits would correct the payment record. The suggested changes correct this problem and also clarify that the benefits referred to include federally-administered State supplementary payments.

Proposed amendment:

() REQUIREMENT TO ESTABLISH AN ACCOUNT.--

(1) REDUCTION IN FUTURE BENEFITS.--Section

1631(a)(2)(F)(ii)(III)(bb) of the Social Security Act, as added by section 213(a) of PRWORA, is amended by striking "the total amount" and all that follows through "1613(c)" and inserting "in any case where the individual knowingly misapplies benefits from such an account, the Commissioner shall reduce future benefits payable to such individual (or to such individual and his spouse) by an amount equal to the total amount of such benefits so misapplied".

(2) CORRECTION IN TERMINOLOGY.--Section

1631(a)(2)(F)(iii) of the Social Security Act, as added by section 213(a) of PRWORA, is amended to read as follows--

"(iii) The representative payee may deposit into the account established pursuant to clause (i) any other funds representing past-due benefits under this title to the eligible individual, provided that the amount of such past-due benefits is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual (including State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of P.L. 93-66).".

Sec. 214: reduction in SSI payments to privately insured institutionalized individuals:

1. CHANGES TO OUTDATED TERMINOLOGY.

Problem: Section 1611(e) of the Social Security Act, as amended by section 214 of PRWORA, uses outdated terminology in referring to certain medical facilities. The terminology used in the Medicaid program to designate various kinds of covered facilities has changed. However, those changes are not reflected in SSI law. For example, the term "extended care facilities" no longer applies to any facility and new terminology, such as psychiatric residential treatment facilities (PRTF) has been added. PRTFs provide in-patient treatment to individuals under the age of 21. Even though Medicaid pays for the cost of care, SSI recipients in these facilities are not subject to the \$30 payment standard because the facility is not one of those specifically named in subparagraphs (B), (E), and (G) of section 1611(e)(1). Use of the term "medical treatment facility" would assure that the \$30 payment provision would apply to all medical facilities that receive Medicaid reimbursement for "costs of care." Conforming changes in section 1611(e)(1)(G) are also needed in order to assure that children whose SSI benefits are subject to the \$30 payment standard established under section 1611(e)(1)(B) receive the same treatment under this provision which provides benefits based on the full benefit rate for other individuals subject to the same standard whose stay in a treatment facility is anticipated to be for 3 or fewer months.

Proposed amendment:

() REDUCTION IN CASH BENEFITS PAYABLE TO INSTITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE.--Section 1611(e)(1) of the Social Security Act, as amended by section 214 of PRWORA, is further amended--

(1) in subparagraph (B), by striking "hospital, extended care facility, nursing home, or intermediate care facility" and inserting "medical treatment facility";

(2) in clause (iii) of subparagraph (E), by striking "hospital, extended care facility, nursing home, or

intermediate care facility" and inserting "medical treatment facility"; and

(3) in subparagraph (G), in the matter preceding clause (i)--

(A) following the comma after "psychiatric care", by striking "or which is in a hospital, extended care facility, nursing home, or intermediate care" , and inserting "or is in a medical treatment"; and

(B) after "title XIX" by inserting "or, in the case of an individual who is a child under the age of 18, under any health insurance policy issued by a private provider of such insurance".

TITLE III--CHILD SUPPORT

Sec. 301: State obligation to provide CSE services:

1. STATE PLAN REQUIREMENTS: CLARIFYING AMENDMENT.

Problem: Sec. 454(6)(B), as amended by sec. 301(a)(2)(C) of PRWORA, specifies only individuals receiving title IV-A assistance as exempt from fees under title IV-D. Individuals receiving foster care or adoption assistance payments under title IV-E or receiving Medicaid under title XIX are also exempt. In addition, sec. 822 of PRWORA amends sec. 6 of the Food Stamp Act to give States the option to require cooperation with the State IV-D agency as a condition of receiving food stamps. Where the State elects this option, food stamp recipients should not be subject to CSE fees.

Proposed amendment:

() INDIVIDUALS SUBJECT TO FEE FOR CSE SERVICES.--Section 454(6)(B), as amended by section 301(a)(2)(C) of PRWORA, is amended by striking "not receiving assistance under any State program funded under part A" and inserting "(other than an individual who is receiving assistance under a State program under part A or E or title XIX, or who is required by the State to cooperate with the State agency administering the program under this part pursuant to section 6(l) or (m) of the Food Stamp Act of 1977)".

2. CORRECTION OF REFERENCE.

Problem: Amendments made by sec. 301(a) of PRWORA relocate language concerning CSE collections for children not receiving welfare benefits from sec. 454(6) to 454(4). A needed conforming amendment to sec. 464 was not made.

Proposed amendment:

() CONFORMING AMENDMENT.--Section 464(a)(2)(A) of the Social Security Act is amended in the first sentence by striking "section 454(6)" and inserting "section 454(4)(B)".

Sec. 302: distribution of CSE collections:

1. LIMITS ON COLLECTIONS RETAINED BY STATE AND FEDERAL GOVERNMENTS.

Problem: Sec. 457(a)(2) of the Social Security Act, as amended by sec. 302(a) of PRWORA, specifies, with respect to families that formerly received cash assistance, that the portion of child support collections retained by the State and Federal governments may not exceed their share of amounts paid to the family as assistance by the State. A parallel provision should be added with respect to families currently receiving assistance.

Proposed amendment:

() DISTRIBUTION OF CSE COLLECTIONS: FAMILIES RECEIVING ASSISTANCE.--Section 457(a)(1) is amended by adding at the end the following:

"In no event shall the total of amounts paid to the Federal Government and retained by the State exceed the total amounts that have been paid to the family as assistance by the State.".

2. COLLECTIONS FOR FAMILIES RECEIVING ASSISTANCE FROM INDIAN TRIBES.

Problem: Sec. 457(a)(4) of the Social Security Act, added by sec. 302(a) of PRWORA, requires the State CSE agency "In the case of a family receiving assistance from an Indian tribe, distribute the amount so collected pursuant to an agreement entered into pursuant to a State plan under section 454(33)".

This provision should be deleted. It is at best unnecessary, adding nothing to the distribution rules otherwise provided under

sec. 457 and the permissive authority for cooperative agreements between State agencies and Indian tribes under sec. 454(33). At worst, it suggests that all CSE collections for families receiving assistance from a tribe pursuant to sec. 412 should be distributed by the State agency under a sec. 454(33) agreement, a reading at odds with both secs. 454(33) and 412. Such an agreement would be unnecessary and inappropriate if the tribe were also operating its own title IV-D program through direct funding under sec. 455(b), as added by sec. 375(b) of PRWORA.

Proposed amendment:

() COLLECTIONS FOR FAMILIES RECEIVING ASSISTANCE FROM INDIAN TRIBES.--Section 457(a) of the Social Security Act, as amended by section 302(a) (of PRWORA, is amended--

(1) by striking paragraph (4); and

(2) by redesignating paragraph (5) as paragraph (4).

3. STUDY AND REPORT.

Problem: Sec. 457(a)(5) of the Social Security Act (redesignated as sec. 457(a)(4) by the preceding amendment), as added by sec. 302(a) of PRWORA, requires the Secretary to report to the Congress by October 1, 1998 on the impact of changes in support distribution made by PRWORA. However, most of the changes the report is intended to cover have a delayed effective date (either in the Federal law, or because of the grace period provided for State law amendments), and because information on case closures and on failures to pay support needs to be collected over time. Therefore, a report meeting the statutory deadline would necessarily omit much important information and be of limited usefulness. We propose a one-year delay in the report due date.

Proposed amendment:

() REPORT TO CONGRESS.--Section 457(a)(4) (as redesignated by the preceding amendment) is amended by striking "October 1, 1998" and inserting "October 1, 1999".

4. CONTINUATION OF ASSIGNMENTS.

Problem: New TANF rules on support assignments, and revised CSE rules on support distribution to families formerly receiving cash assistance, will require significant changes in States' recordkeeping and distribution systems.

Sec. 408(a)(3)(A) of the Social Security Act, as added by sec. 103(a) of PRWORA, provides that (subject to a specified phase-in schedule) once a family leaves the program, their assignment of support rights to the TANF program will not apply to any rights accruing before the family received assistance. Under sec. 457(a)(2) of the Social Security Act, as amended by sec. 302 of PRWORA, States must pay the family all arrears accruing before or after the family received assistance before reimbursing itself for the costs of such assistance.

PRWORA leaves a gap in guidance on the timetable for transition from the "old" to the "new" assignment and distribution rules. The amended sec. 457(b) provides that any rights so assigned and in effect before August 22, 1996, the date of enactment of PRWORA, remain assigned after that date. However, the new law is silent with respect to assignments made on or after August 22, 1996 but before October 1, 1997.

The following proposed amendment applies the old rules until the date (not later than October 1, 1997) chosen by the State. This approach will eliminate the ambiguity created by the "gap", and will give States needed flexibility to make the changes in recordkeeping, application, and distribution procedures that will be necessary to enable them to implement the new rules.

Proposed amendment:

() CONTINUATION OF ASSIGNMENTS.--Section 457(b) of the Social Security Act, as added by section 302(a) of PRWORA, is amended--

(1) by striking "which were assigned" and inserting "assigned"; and

(2) by striking "and which were in effect" and all that follows and inserting "and in effect on September 30, 1997

(or such earlier date, on or after August 22, 1996, as the State may choose), shall remain assigned after such date."

5. CONFORMING AMENDMENTS.

Problem: The amendments to sec. 457 of the Social Security Act made by sec. 302(a) of PRWORA create a comprehensive scheme for distribution of all child support collections. Conforming amendments are needed to language in secs. 464 and 466 of the Social Security Act concerning distribution of child support collections from Federal and State tax refund offsets.

Proposed amendments:

() CONFORMING AMENDMENT.--

(A) FEDERAL TAX REFUND OFFSET.--Section 464(a)(2)(A) of the Social Security Act is amended in the final sentence by inserting "in accordance with section 457" before the period.

(B) STATE TAX REFUND OFFSET.--Section 466(a)(3)(B) of the Social Security Act is amended by striking "section 457(b)(4) or (d)(3)" and inserting "section 457".

Sec. 313: State directory of new hires:

1. CIVIL MONEY PENALTY AMOUNT.

Problems: Minor and clarifying amendments to sec. 453A(d) of the Social Security Act, as added by sec. 313(b) of PRWORA, would allow States to set penalties up to \$25 for failure to report a new hire, and \$500 for a failure involving conspiracy, and would clarify that the \$25 penalty applies to each failure to meet reporting requirements concerning a new hire.

Proposed amendments:

() CIVIL MONEY PENALTY AMOUNTS.--Section 453A(d) of the Social Security Act, as added by sec. 313(b) of PRWORA, is amended--

(1) in the matter preceding paragraph (1), by striking "shall be less than" and inserting "shall not exceed"; and

(2) in paragraph (1), by striking "\$25" and inserting "\$25 per failure to meet the requirements of this subsection with respect to a newly hired employee".

Sec. 316: expansion of FPLS:

1. CHILD CUSTODY AND VISITATION ORDERS: DELETION OF INCORRECT INSERTION.

Problem: Sec. 316 of PRWORA amends sec. 453 of the Social Security Act to broaden the purposes for which the FPLS may be used. These new uses include obtaining and transmitting, to any "authorized person", information helping to locate any individual under an obligation to provide child custody or visitation rights.

One of the amendments to the list of "authorized persons" is without effect, but misleading, and should be deleted. It amends the prior law referring to State agents responsible for implementing the title IV-D CSE plan by adding a reference to authority or duty under such plan "to enforce orders providing child custody or visitation rights". There is no such authority or duty under State IV-D plans, which are concerned only with establishment of paternity and establishment and enforcement of child support orders.

Proposed amendment:

() FPLS: DELETION OF ERRONEOUS INSERTION.--Section 453(c)(1) of the Social Security Act, as amended by section 316(b)(1) of PRWORA, is amended by striking "or to seek to enforce orders providing child custody or visitation rights".

2. FPLS ACCESS TO CERTAIN IRS RECORDS.

Problem: Sec. 6103(l)(6)(A)(ii) of the Internal Revenue Code permits the IRS to disclose to the Secretary of HHS the names and addresses of payors of income to individuals with respect to whom child support obligations are owing, but only if such return information is not reasonably available from any other source. It currently does not permit the IRS to disclose the taxpayer identification numbers (TINs) of such payors of income. The TINs can provide HHS and other CSE agencies useful identifying information and can be used as a cross-reference for payor names and addresses. The proposed correction would enable HHS to obtain this information, without changing any of the other requirements of sec. 6103(l)(6).

Proposed amendment:

() FPLS ACCESS TO TAXPAYER IDENTIFICATION NUMBERS.--Section 6103(l)(6)(A)(ii) of the Internal Revenue Code of 1986 is amended by deleting "names and addresses of payors" and inserting "names, addresses, and identifying numbers assigned under section 6109 of payors".

3. AVAILABILITY OF DATA IN REGISTRIES FOR RESEARCH.

Problem: Sec. 453(j)(5) of the Social Security Act, as added by sec. 316(f) of PRWORA, authorizes the Secretary to make available for research data in the New Hire Registry, but not data in the Federal Case Registry.

Proposed amendment:

() ACCESS TO REGISTRY DATA FOR RESEARCH PURPOSES.--Section 453(j)(5) of the Social Security Act, as added by sec. 316(f) of PRWORA, is amended--

(1) by inserting "data in the registries maintained under this section (including" before "information"; and

(2) by striking "section 453A(b)" and inserting
 "section 453A(b))".

Sec. 317: use of social security numbers in CSE:

1. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS IN CSE:
 CONFORMING AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY
 ACT.

Problem: Sec. 317 of PRWORA adds a new sec. 466(a)(13) of the Social Security Act, requiring recording of social security numbers of applicants for various licenses, in connection with certain court and administrative orders, and on death certificates. The enacted version omitted conforming amendments to title II of the Social Security Act which were included in previous versions of the bill, and which are critical for consistency with the changes to title IV-D. The following proposals restore these conforming amendments:

Proposed amendments:

() Section 317 of PRWORA is amended--

(1) by inserting "(a) IN GENERAL.--" before "Section 466(a)"; and

(2) by adding at the end the following:

"(b) CONFORMING AMENDMENTS.--Section 205(c)(2)(C) is amended--

"(1) in clause (ii), by inserting after the first sentence the following: 'In the administration of any law involving the issuance of a marriage certificate or license, each State shall require each party named in the certificate or license to furnish to the State (or political subdivision thereof), or any State agency having administrative

responsibility for the law involved, the social security number of the party.';

"(2) in clause (ii), by inserting 'or marriage certificate' after 'Such numbers shall not be recorded on the birth certificate'; and

"(3) by adding at the end the following new clauses:

"'(x) An agency of a State (or a political subdivision thereof) charged with the administration of any law concerning application for a professional license, commercial driver's license, or occupational license may require each applicant for issuance of the license to provide the applicant's social security number to the agency for the purpose of administering such laws, and for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.

"'(xi) All divorce decrees, support orders, and paternity determinations issued, and all paternity acknowledgements made, in each State shall include the social security number of each individual subject to the decree, order, determination, or acknowledgement in the records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.'".

Sec. 321: adoption of uniform state laws:

1. DEADLINE FOR STATE ADOPTION OF UIFSA.

Problem: Sec. 466(f) of the Social Security Act, added by sec. 321 of PRWORA, requires States, by January 1, 1998, to have in effect the Uniform Interstate Family Support Act (UIFSA), including any changes adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) on or before that date. This requirement needs to incorporate a grace period enabling State legislatures to consider UIFSA changes adopted by NCCUSL after enactment of PRWORA but before January 1, 1998.

Proposed amendment:

() DEADLINE FOR STATE ADOPTION OF UIFSA: GRACE PERIOD.--

Section 466(f), as added by sec. 321 of PRWORA, is amended by striking all that follows "section 454(20)(A)," and inserting the following:

"each State must accomplish the following with respect to the Uniform Interstate Family Support Act (UIFSA), as approved by the American Bar Association on February 9, 1993:

"(1) On and after January 1, 1998, (subject to paragraph (2)), the State must have in effect UIFSA, including any amendments adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) on or before January 1, 1998.

"(2) In the case of any amendment described in paragraph (1) which is adopted by NCCUSL after August 22, 1996, the State must have such amendment in effect by the later of (i) January 1, 1998, or (ii) the first day of the first calendar quarter beginning after the close of the

first regular session of the State legislature that begins after the date of such adoption. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature."

Sec. 341: performance-based incentives and penalties:

1. CORRECTION OF REFERENCE.

Problem: Sec. 341(c)(2) of PRWORA amended sec. 452(g)(2) of the Social Security Act to replace the definition of "paternity establishment percentage" in subparagraph (A) with definitions of "IV-D paternity establishment percentage" in subparagraph (A) and "Statewide paternity establishment percentage" in subparagraph (B). The language in the final sentence of sec. 452(g)(2) provides a rule concerning which children are to be counted in determining these percentages. A needed conforming amendment to this final sentence, changing the reference from "subparagraph (A)" to "subparagraphs (A) and (B)", was not made.

Proposed amendment:

() CALCULATION OF PATERNITY ESTABLISHMENT PERCENTAGE:

CORRECTION OF REFERENCE.--Section 452(g)(2) of the Social Security Act, as amended by section 341(c)(2) of PRWORA, is amended in the matter following subparagraph (C) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)".

Sec. 345: technical assistance:

1. MEANS AVAILABLE FOR PROVISION OF TECHNICAL ASSISTANCE, OPERATION OF FPLS.

Problem: Sec. 452(j) of the Social Security Act, as added by sec. 345(a) of PRWORA, and sec. 453(o) of the Social Security

Act, as added by sec. 345(b) of PRWORA, omit standard language authorizing the Secretary to conduct the authorized activities (technical assistance to States and operation of the FPLS) "directly or through grants, contracts, or interagency agreements". The omission makes the use of grants and interagency agreements unavailable, thus seriously hampering accomplishment of these activities.

Proposed amendments:

() MEANS AVAILABLE FOR PROVISION OF TECHNICAL ASSISTANCE, OPERATION OF FPLS.--

(1) TECHNICAL ASSISTANCE.--Section 452(j), as added by section 345(a) of PRWORA, is amended by striking "to cover costs incurred by the Secretary" and inserting "which shall be available for use by the Secretary, either directly or through grants, contracts, or interagency agreements,".

(2) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.--Section 453(o), as added by section 345(b) of PRWORA, is amended--

(A) in the heading, by striking "RECOVERY OF COSTS" and inserting "USE OF SET-ASIDE FUNDS"; and

(B) by striking "to cover costs incurred by the Secretary" and inserting "which shall be available for use by the Secretary, either directly or through grants, contracts, or interagency agreements,".

2. AVAILABILITY OF CERTAIN FPLS FUNDS UNTIL EXPENDED.

Problem: Sec. 453(o) of the Social Security Act, added by sec. 345(b) of PRWORA, should be amended to provide that the funds equaling 2 percent of prior year Federal recoveries from CSE collections that are appropriated for use in operating the FPLS

remain available until expended. This would parallel the provision in sec. 452(j) of the Social Security Act, added by sec. 345(a) of PRWORA, with respect to the funds equaling 1 percent of prior year Federal recoveries from CSE collections that are appropriated for technical assistance. The proposed amendment would apply only to funds for the first 5 years.

Proposed amendment:

() AVAILABILITY OF CERTAIN FPLS FUNDS UNTIL EXPENDED.--

Section 453(o) of the Social Security Act, as added by sec. 345(b) of PRWORA, is amended by adding at the end "Amounts appropriated under this subsection for each of fiscal years 1997 through 2001 shall remain available until expended.".

Sec. 362: support collection from Federal employees:

1. RESPONSE TO NOTICE OR PROCESS.

Problem: Sec. 459(c)(2)(C) of the Social Security Act, as added by sec. 362(a) of PRWORA, requires the government to respond in 30 days to an order, process, or interrogatory relating to enforcement of support obligations under this authority. The word "respond" is ambiguous, creating uncertainty as to the government agents' responsibilities. For example, this language might be read to require payment to a court within 30 days of receipt of the order, a task that would be impossible for many agencies. Federal pay periods often run on a two-week schedule with a pay day two weeks after the end of the cycle; thus, the earliest that the agency could pay into court would be 28 days after the first day of the new pay cycle. The first pay day for a full pay cycle following receipt of a writ will, accordingly, almost always occur after 30 days.

Proposed amendment:

() RESPONSE TO NOTICE OR PROCESS.--Section 459(c)(2)(C) of the Social Security Act, as amended by section 362(a) of PRWORA, is amended by striking "respond to the order, process, or

interrogatory" and inserting "begin the process to withhold available sums in response to the order or process, or answer the interrogatory.".

2. MONEYS SUBJECT TO PROCESS.

Problem: Sec. 459(h) of the Social Security Act, as amended by sec. 362(a) of PRWORA, states that amounts subject to garnishment or other collection through the Federal employer for enforcement of support obligations includes moneys "paid or payable" to the employee. The U.S. cannot withhold or surrender money already "paid" to the employee. In addition, this language is inconsistent with sec. 459(a), under which only money "due from, or payable by" the U.S. is subject to process.

Proposed amendment:

() CORRECTION CONCERNING MONEYS SUBJECT TO PROCESS.--

Section 459(h)(1) of the Social Security Act, as added by section 362(a) of PRWORA, is amended in the matter preceding subparagraph (A), and in subparagraph (A)(i), by striking "paid or" each place it appears.

3. EXEMPTION OF CERTAIN VA BENEFITS.

Problem: Sec. 362(a) of PRWORA consolidates into sec. 459 of the Social Security Act several sections of prior law dealing with support collections from Federal employees by garnishment of wages and other legal process. The consolidated section omits prior sec. 462(f)(2), which exempted from such process certain payments to veterans and their dependents and survivors, including VA pensions, disability compensation not paid in lieu of retired pay, and dependency and indemnity compensation (DIC) (generally, a payment to a veteran's survivors based on the veteran's service-connected death).

Under new sec. 459(h)(1) of the Social Security Act, moneys subject to legal process for enforcement of child support or alimony obligations include "periodic benefits...or other payments...under any...system or fund established by the United

States which provides for the payment of pensions,...dependents' or survivors' benefits, or...as compensation for death under any Federal program." Clause (V) of sec. 459(h)(1)(A)(ii) ("clause (V)") specifies that VA compensation paid in lieu of waived military retired pay is subject to such legal process.

It is unclear whether Congress intended to eliminate these exemptions for VA compensation. That result could be inferred from the failure to include language equivalent to "old" sec. 462(f)(2) in "new" sec. 459. But in that case clause (V) (which specifies that one subcategory of VA compensation is subject to process) would be superfluous. On the other hand, if the inclusion of clause (V) is read to indicate that the exemption survives for all of these benefits except those specified therein, the statute would protect non-need-based benefits while subjecting certain need-based benefits to garnishment.

This ambiguity is certain to spawn extensive litigation. We therefore propose that sec. 459 of the Social Security Act be amended to clarify congressional intent on this point. The following proposed amendment would preserve the current exempt status of VA pension, DIC, and disability compensation not paid in lieu of military retired pay.

Proposed amendment:

() COLLECTION OF SUPPORT FROM FEDERAL EMPLOYEES: EXEMPTION OF CERTAIN VETERANS' BENEFITS.--Section 459(h)(1)(B) of the Social Security Act, as amended by section 362(a) of PRWORA, is amended--

(1) in clause (i), by striking "individual; or" and inserting "individual;";

(2) in clause (ii), by striking "duty." and inserting "duty; or"; and

(3) by adding at the end the following new clause:

"(iii) of periodic benefits under title 38, United States Code, except as provided in subparagraph (A)(ii)(V).".

4. CONFORMING AMENDMENT.

Problem: Sec. 362 of PRWORA consolidated into sec. 459 of the Social Security Act provisions relating to support collections from Federal employees previously located in secs. 459, 461, and 462. A needed conforming change to a cross-reference was not made.

Proposed amendment:

() CORRECTION OF REFERENCE.--Section 454(19)(B)(ii) of the Social Security Act is amended by striking "section 462(e)" and inserting "section 459".

Sec. 366: definition of support order:

1. DEFINITION OF SUPPORT ORDER.

Problem: Sec. 453(p) of the Social Security Act, as added by sec. 366 of PRWORA, includes in the definition of "support order" only those orders for spousal support that provide for support of a child. However, sec. 454(4)(B) of the Social Security Act, as amended by sec. 301(a) of PRWORA, permits enforcement of a spousal support order of the custodial parent of a child receiving title IV-D services, without requiring that the order be combined with a child support order. Sec. 101 of UIFSA is consistent with sec. 454(4)(B).

Proposed amendment:

() CLARIFICATION CONCERNING SPOUSAL SUPPORT.--Section 453(p), as added by sec. 366 of PRWORA, is amended by striking "a child and" before "the parent with whom the child is living".

Sec. 371: international support enforcement:

1. CORRECTION OF REFERENCE.

Problem: This amendment corrects an incorrect reference.