OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Volumes 1 - 5
H.R. 5835

PUBLIC LAW 101-508
101ST CONGRESS

REPORTS, BILLS, DEBATES, AND ACT

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Social Security Administration

OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Volumes 1 - 5
H.R. 5835

PUBLIC LAW 101-508
101ST CONGRESS

REPORTS, BILLS, DEBATES, AND ACT

Volume 1

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Social Security Administration
Office of the Deputy Commissioner for Policy and External Affairs
Office of Legislation and Congressional Affairs

PREFACE

This 5 volume compilation contains historical documents pertaining to P.L. 101-508, the Omnibus Budget Reconciliation Act of 1990. The book contains congressional debates, a chronological compilation of documents pertinent to the legislative history of the public law and listings of relevant reference materials.

Pertinent documents include:

- Committee reports
- Differing versions of key bills
- The Public Law
- Legislative history

The books are prepared by the Office of Legislation and Congressional Affairs and are designed to serve as helpful resource tools for those charged with interpreting laws administered by the Social Security Administration.

TABLE OF CONTENTS

OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Volume 1

Volume 2

TABLE OF CONTENTS

Volume 2 (CONTINUED)

Volume 3

Volume 4

Volume 5

B. President Bush's Fiscal Year 1991 Budget (A Summary and Analysis Prepared by the Staff of the House Budget Committee)—February 2, 1990 (excerpts)

C. Background Materials on Federal Budget and Tax Policy for Fiscal Year 1991 and Beyond (Prepared by Staff for the Use of the Committee on Ways and Means)
House Report 101-21—February 6, 1990 (excerpts)

D. Data and Materials for the Fiscal Year 1991 Finance Committee Report Under the Congressional Budget Act (Prepared by the Staff for the Use of the Committee on Finance)
Senate Report No. 101-82—February 1990 (excerpts)

E. Legislative History of Ways and Means Democratic Alternative—House Committee on Ways and Means—Committee Print No. 101-37—October 15, 1990 (excerpts)

F. Republican Alternative Substitute—Representative Carl Pursell (R., MI) Amendments to H.R. 5835—Congressional Record—October 15, 1990

G. H.Res. 509 (Providing for consideration of H.R. 5835)

1. House Committee on Rules Report
House Report No. 101-882 (to accompany H.Res. 509) —October 16, 1990 (excerpts)

2. House Debate on H.Res. 509—Congressional Record —October 16, 1990

H. Office of Management and Budget Statement of Administration Policy on the House and Senate Versions of H.R. 5835—the Omnibus Reconciliation Act of 1990—October 19, 1990

I. "Dear Conferee" letter from Health and Human Services Secretary Sullivan—October 19, 1990

J. Appointment of Conferees

1. Senate appointed conferees—Congressional Record—October 18 and 19, 1990

2. House appointed conferees—Congressional Record—October 18, 19, and 20, 1990

K. House Resolutions Concerning House/Senate Conference Action

1. H.Res. 527, Waiving the Requirement for a Two-Thirds Vote to Consider a Report from the Committee on Rules on the Same Day It Is Presented to the House—October 24, 1990

a. House Committee on Rules Report No. 101-940, to accompany H.Res. 527—October 24, 1990

b. House Debate on H.Res. 527—Congressional Record—October 25, 1990

TABLE OF CONTENTS

Volume 5 (CONTINUED)

101ST CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
101-881

OMNIBUS BUDGET RECONCILIATION ACT OF 1990

REPORT

OF THE

COMMITTEE ON THE BUDGET
HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H.R. 5835

A BILL TO PROVIDE FOR RECONCILIATION PURSUANT TO SECTION 4 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR THE FISCAL YEAR 1991

together with

ADDITIONAL, MINORITY, AND DISSENTING VIEWS

OCTOBER 16 (legislative day, OCTOBER 15), 1990.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1990

CONTENTS

101ST CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
101-881

PROVIDING FOR RECONCILIATION PURSUANT TO SECTION 4 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR THE FISCAL YEAR 1991

OCTOBER 16, (legislative day, OCTOBER 15), 1990.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. PANETTA, from the Committee on the Budget, submitted the following

REPORT

together with

ADDITIONAL, MINORITY, AND DISSENTING VIEWS

[To accompany H.R. 5835]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Budget, to whom reconciliation recommendations were submitted pursuant to section 4 of House Concurrent Resolution 310, the concurrent resolution on the budget for fiscal year 1991, having considered the same, report the bill without recommendation.

STATEMENT OF THE COMMITTEE ON THE BUDGET

The Committee on the Budget to whom reconciliation recommendations were submitted pursuant to section 4 of H. Con. Res. 310, the Concurrent Resolution on the Budget for Fiscal Year 1991, having considered the same, reports a bill embodying those recommendations.

VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the bill. H.R. 5835 was ordered reported by the Committee on October 15, 1990, by voice vote, without recommendations, with a quorum being present.

Budget Authority and Cost Estimates, Including Estimates of Congressional Budget Office

In compliance with clause 7(a) of rule XIII and clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee provides that information furnished by the Congressional Budget Office on H.R. 5835, and required to be included therein, will appear in the explanation of the various titles contained in the bill.

Inflationary Impact Statement

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee believes that H.R. 5835 would not have an inflationary impact on prices and costs in the operation of the general economy.

TITLE IV—COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 15, 1990.

Hon. LEON E. PANETTA,
Chairman, Committee on the Budget,
House of Representatives, Washington, D.C. 20515

DEAR MR. CHAIRMAN: I am transmitting herewith the recommendation of the Committee on Energy and Commerce for changes in laws within its jurisdiction pursuant to section 310 of the Congressional Budget Act of 1974 and section 4(b)(4) of H. Con. Res. 310, the Concurrent Resolution on the Budget-Fiscal Year 1991

The recommendations are embodied in a series of Committee prints adopted by the Committee on October 11, 1990 and reflected in Subtitles A through C of the enclosed statutory language. Also enclosed is accompanying report language and Congressional Budget Office cost estimates.

The enclosed recommendations, when combined with non-duplicative savings achieved in Medicare by the Committee on Ways and Means, and the EPA fees shared with the Committees on Public Works and Agriculture, will meet or exceed budget resolution targets for this Committee.

The Committee has received assurances from the Budget Committee that we will be credited with savings with respect to three provisions which have already been acted on by the House.

First, the automobile fees referenced in Subtitle C of the enclosed legislative language have already been passed in H.R. 3030, the "Clean Air Act Amendments of 1990." Second, radon fees referenced in Subtitle C currently exist as part of the Toxic Substances Control Act. Finally, pursuant to an exchange of letters with the Committee on Government Operations, this Committee's recommendations on Medicaid contained in Subtitle B include the provisions of H.R. 5450, the Computer Matching and Privacy Protection Amendments which passed the House on October 1, 1990.

Thank you for your cooperation in these matters.

Sincerely,

JOHN D. DINGELL,
Chairman.

TABLE OF CONTENTS

PURPOSE AND SUMMARY

The purpose of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1990 is to make revisions in Part B of the Medicare program and in the Medicaid program, in accordance with the reconciliation instructions to the Committee on Energy and Commerce contained in the Concurrent Resolution on the Budget—Fiscal Year 1991. The instructions assume $43.7 billion in savings for the Committee on Energy and Commerce for Fiscal Years 1991-1995 taking into account that other committees which share jurisdiction over Medicare and other programs within the purview of this Committee will contribute to those savings in their reconciliation bills. The instructions further assume new entitlement authority of $2.0 billion over the period FY 1991 through 1995 for purposes of protecting poor and near-poor Medicare beneficiaries from increased cost-sharing obligations under Part B.

The Committee bill consists of three subtitles: subtitle A, relating to Medicare and Regulation of Medicare Supplemental Insurance Policies; subtitle B, relating to Medicaid; and subtitle C, relating to energy and miscellaneous user fees.

Subtitle A consists of 4 Parts. Part 1 contains changes in payments for physician services under Medicare, changes in payments for other covered items and services covered under Medicare. Part 2 contains changes relating to peer review organizations and other provisions, including an extension of the current Medicare secondary payor provisions for the disabled and ESRD beneficiaries. Part 3 includes changes relating to beneficiaries, including increases in the monthly Part B premium and deductible. Part 4 revises standards for Medicare supplemental insurance policies and provides for Federal enforcement of such standards.

Subtitle B, relating to Medicaid, consists of five parts. Part 1 contains provisions that will achieve savings by reforming the purchase of prescription drugs and requiring State Medicaid programs to pay employer group health insurance premiums on behalf of

Medicaid beneficiaries in cases where this would be cost-effective. Part 2 would extend Medicaid payment for Part B premiums for Medicaid beneficiaries with incomes below 125 percent of the Federal poverty line. This initiative is financed by the $2.0 billion assumed in the Budget Resolution for this specific purpose. Part 3 contains provisions to improve the health of low-income children, including phased-in mandatory coverage of children up through age 12 in families with incomes at or below 100 percent of the poverty level. These initiatives are financed on a "pay-as-you-go-basis" by the savings achieved in Part 1, as contemplated by the conferees on the Budget Resolution. Part 4 contains amendments relating to the nursing home reform provisions enacted in the Omnibus Budget Reconciliation Act of 1987. Part 5 contains a number of miscellaneous provisions relating to payments, eligibilty and coverage, health maintenance organizations, demonstration projects and home and community-based waivers, and other issues.

Background and Need for Legislation

The Concurrent Resolution on the Budget—Fiscal Year 1991 (H.Con.Res. 310, adopted October 9, 1990) provides for unspecified savings in the Medicare program over the period FY 1991 through FY 1995. The Budget Resolution assigns this savings target to both this Committee and the Committee on Ways and Means, without instructions as to how much is to be achieved in Part A, which is not within the jurisdiction of this Committee, and how much is to be achieved in Part B, which is within the jurisdiction of both committees. Therefore, this Committee does not have a specific target for the Medicare savings it must achieve. The net savings from this Committee are consolidated with the net savings from the Committee on Ways and Means to determine whether the target has been met. The Committee is concerned that the increases in Part B premiums and deductibles assumpted by the Budget Resolution and contained in this bill will impose a disproportionately heavy financial burden on low-income Medicare beneficiaries. Accordingly, the Committee bill includes a provision to pay the Part B premiums of beneficiaries with income below 125 percent of the Federal poverty level and liquid assets of $4,000 or less. The Committee also remains concerned that continual reductions in payments to providers of service, without adequate evaluation of the effects of prior reductions, may impact on enrollees in the form of reduced quality of care or barriers to accessibility.

The Budget Resolution also apparently assumes reductions of $2.38 billion in Medicaid outlays over the period FY 1991 through 1995. The Committee bill would achieve these savings primarily by reforming the purchase of prescription drugs by the States and by requiring the States, where cost-effective, to purchase employer group health coverage on behalf of Medicaid beneficiaries. The savings achieved under the Committee's recommendations would exceed the Budget Resolution's apparent target by approximately several hundred million dollars over the next five years. In an effort to respond to the health care crisis confronting poor children, the Committee is recommending that these savings be applied to initiatives to improve child health. Foremost among these is a

modest, incremental expansion in Medicaid coverage for children through age 12 in families with incomes at or below 100 percent of the Federal poverty level. This will result in the extension of basic health care coverage to an estimated 700,000 children in 1995 when the provision is fully implemented.

HEARINGS

The Subcommittee on Health and the Environment held one day of hearings on Medicare Program Outlay Reductions on June 27, 1990, and heard testimony from 10 witnesses, including the Physician Payment Review Commission, representatives of 6 medical associations, and 3 other organizations. On June 7, 1990, the Subcommittee on Health and the Environment held joint hearings with the Subcommittee on Commerce, Consumer Protection, and Competitiveness on reform of the Medicare Supplemental Insurance Market. Testimony was received from 10 witnesses, including 2 Members of Congress, the General Accounting Office, representatives of the health insurance industry, and 3 other organizations. The Subcommittee on Health and the Environment held field hearings on March 5, 1990, in Atlanta, Georgia, on Medicare Part B Carrier Issues. Testimony was received from 10 witnesses, including 4 Members of Congress, regional offices of the Health Care Financing Administration and HHS Inspector General, and representatives of 4 other groups.

The Subcommittee held two days of hearings on Medicaid Budget Initiatives on September 10, 1990, and September 14, 1990, and heard testimony from 37 witnesses, including nine Members of Congress, the General Accounting Office, HHS Office of the Inspector General, and the Health Care Financing Adminisration. Illinois, on Medicaid and the Maternal and Child Health Block Grants on March 5, 1990. Testimony was received from 11 witnesses, including the Illinois Department of Public Health, and the Illinois Department of Public Aid, and representatives of various area health care providers.

COMMITTEE CONSIDERATION

On October 11, 1990, the Committee met in an open mark-up session and orderd the Committee Print, as amended, transmitted to the Budget Committee by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been made to the Committee.

COMMITTEE ON GOVERNMENT OPERATIONS

Pursuant to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee believes that the bill will reduce Medicare program outlays by $1.7 billion in FY 1991 and $24.4 billion over the period FY 1991 through 1995, and will reduce Medicaid program outlays by $837 million over the period FY 1991 through 1995.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 15, 1990.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the Reconciliation recommendations of the Committee on Energy and Commerce, as ordered transmitted to the House Committee on the Budget, October 15, 1990.

The estimates included in the attached table represent the 1991-1995 effects on the federal budget and on the budget resolution baseline of the Committee's legislative proposals affecting spending. CBO understands that the Committee on the Budget will be responsible for interpreting how savings contained in these legislative proposals measure against the budget resolution reconciliation instructions.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

ENERGY AND COMMERCE: RECONCILIATION PROVISIONS

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991-95
SUBTITLE A—PROVISIONS RELATING TO THE MEDICARE PROGRAM						
Part 1—Provisions Relating to Part B						
4001 Payments for Overvalued Procedures	−115	−190	−210	−235	−260	−1010
4002 Payments for radiology services	−87	−153	−176	−194	−229	−837
4003 Payments for anesthesia services	−35	−50	−55	−60	−65	−265
4004 Payments for pathology services	−10	−10	−15	−15	−15	−65
4005 Payments for certain other physician services	−95	−155	−175	−190	−215	−830
4006 Update for physicians services	−195	−390	−475	−525	−590	−2,175
4007 Charges of new physicians and practitioners	−55	−105	−125	−140	−155	−580
4008 Payment for technical components of diagnostic tests	−20	−35	−35	−40	−45	−175
4009 Reciprocal billing arrangements for physicians	0	0	0	0	0	0
4010 Aggregation rule for claims for similar physicians services	0	0	0	0	0	0
4011 Practicing physicians advisory council [1]	0	0	0	0	0	0
4012 Release of medical review screens	0	0	0	0	0	0
4013 Technical corrections relating to physician payment	0	0	0	0	0	0
4021 Payments for hospital outpatient services:						
a. Outpatient capital	−65	−90	−85	−90	−80	−410
b. Outpatient services	−115	−150	−180	−210	−245	−900

ENERGY AND COMMERCE: RECONCILIATION PROVISIONS—Continued

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991-95
4022 Payments for durable medical equipment	−170	−305	−380	−445	−490	−1,790
4023 Payment for clinical laboratory services	−95	−155	−175	−200	−225	−850
4024 Coverage of nurse practitioner in rural areas	3	4	5	5	6	23
4025 Clarifying coverage of eyeglasses following cataract surgery	−30	−45	−50	−50	−55	−230
4026 Coverage of injectible drugs for cateoporosis	1	1	0	0	0	2
4027 Conditions of cataract surgery alternatives demonstration	0	0	0	0	0	0
4031 Medicare carrier notice to State medical boards	0	0	0	0	0	0
4032 Technical and miscellaneous corrections to part B	0	0	0	0	0	0
Subtotal	−1,083	−1,828	−2,129	−2,389	−2,663	−10,092
Part 2—Provisions Relating to Parts A & B						
4101 PRO coordination with carriers	0	0	0	0	0	0
4102 Confidentiality of peer review deliberations	0	0	0	0	0	0
4103 Role of peer review in hospital transfers	0	0	0	0	0	0
4104 Peer review notice	0	0	0	0	0	0
4105 Notice to State medical boards of adverse actions	0	0	0	0	0	0
4106 Carrier notice to State medical boards	0	0	0	0	0	0
4121 Extension of medicare secondary payor provisions:						
a. ESRD to 18 months	−50	−55	−60	−65	−65	−295
[1] b. Extension of disabled secondary payer provisions	0	−570	−780	−800	−830	−2,980
4122 Provisions relating to HMO's	([2])	([2])	([2])	([2])	([2])	([2])
4123 Demonstration project for staff-assisted home dialysis	1	1	0	0	0	2
4124 Extension of reporting deadline for Alzheimer's disease demonstration project	0	0	0	0	0	0
4125 Miscellaneous technical corrections	0	0	0	0	0	0
Subtotal	−49	−624	−840	−865	−895	−3,273
Part 3—Provisions Relating to Beneficiaries						
4201 Part B premium [3]	−275	−370	−1,320	−2,590	−3,965	−8,520
4202 Change in part B deductible	−350	−550	−560	−570	−580	−2,610
Subtotal	−625	−920	−1,880	−3,160	−4,545	−11,130
Part 4—Standards for Medicare Supplemental Insurance Policies						
4301 Simplification of Medicare supplemental policies [1]	0	0	0	0	0	0
4302 Requiring approval of State for sale in the State	0	0	0	0	0	0
4303 Preventing duplication	0	0	0	0	0	0
4304 Loss ratios [1]	0	0	0	0	0	0
4305 Limitation on certain sales commissions	0	0	0	0	0	0
4306 Clarification of treatment of plans offered by health maintenance organizations	0	0	0	0	0	0
4307 Prohibition of certain discriminatory practices	0	0	0	0	0	0
4308 Health insurance advisory service for medicare beneficiaries	0	0	0	0	0	0
4309 Additional enforcement through Public Health Service Act	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0
Medicare subtotal	−1,737	−3,372	−4,849	−6,414	−8,103	−24,495
Subtitle B—Medicaid Program						
Part 1—Reductions in Spending						
4401 Reimbursement for prescribed drugs	−100	−250	−445	−570	−740	−2,105

ENERGY AND COMMERCE: RECONCILIATION PROVISIONS—Continued

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991–95
4402 Requiring Medicaid payment of premiums and cost-sharing for enrollment under group health plan where cost effective	−85	−160	−205	−250	−305	−1,005
4403 Computer matching and privacy protection amendments	0	−15	−35	−40	−45	−135
Part 2—Protection of Low-Income Medicare Beneficiaries						
4411 Medicaid payment for premiums for Medicare beneficiaries with incomes below 125 percent of poverty	200	285	360	470	595	1,910
Part 3—Improvements in Child Health						
4421 Phased-in mandatory coverage of children up to 100 percent of poverty	10	55	105	160	230	560
4422 Mandatory continuation of benefits for pregnant women through post-partum and certain infants throughout first year of life	15	30	35	35	40	155
4423 Mandatory use of Outreach locations other than welfare offices	9	50	55	55	60	229
4424 Presumptive eligibility	1	1	2	2	2	8
4425 Role in paternity determinations	(a)	(a)	(a)	(a)	(a)	(a)
4426 Report and transition on errors in eligibility determinations	(a)	(a)	0	0	0	0
Part 4—Nursing home reform provisions						
4431 Medicaid nursing home reform	−1	−2	−2	−2	−3	−10
Part 5—Miscellaneous provisions						
4441 State Medicaid matching payments through voluntary contributions and State taxes	0	0	0	0	0	0
4442 Disproportionate share hospitals	0	0	0	0	0	0
4443 Alternate State payment adjustments to disproportionate share hospitals	0	0	0	0	0	0
4444 Minimum payment adjustment for certain disproportionate share hospitals in Illinois	10	10	10	0	0	30
4445 Federally qualified health centers	3	4	4	4	4	19
4446 Hospice payments	0	0	0	0	0	0
4447 Limitations on disallowance of certain inpatient psychiatric hospital services	0	0	0	0	0	0
4448 Treatment of interest on Indiana disallowance	0	0	0	0	0	0
4451 Optional payment of premiums for "COBRA" continuation coverage where cost effective	0	0	0	0	0	0
4452 Provisions relating to spousal impoverishment	0	0	0	0	0	0
4453 Disregarding German reparation payments from post-eligibility treatment of income under the Medicaid Program	(a)	1	1	1	1	4
4454 Amendments relating to Medicaid transition provision	0	0	0	0	0	0
4455 Clarifying effect of hospice election	0	0	0	0	0	0
4456 Clarification of application of 133 percent income limit to medically needy	0	0	0	0	0	0
4457 Codification of coverage of rehabilitation services	0	0	0	0	0	0
4458 Personal care services in Minnesota	1	1	1	1	1	5
4461 Requirements for health maintenance organizations	0	0	0	0	0	0
4462 Health maintenance organization special rules	0	0	0	0	0	0
4463 Extension and expansion of Minnesota prepaid demonstration	0	0	0	0	0	0
4464 Treatment of Dayton area health plan	−2	−2	−2	−2	−2	−10
4465 Treatment of certain county-operated health insuring organizations	0	0	0	0	0	0
4471 Waiver authority for demonstrations to protect assets through private long-term care insurance	0	0	0	0	0	0
4472 Timely payment under waivers of freedom of choice of hospital services	0	0	0	0	0	0

ENERGY AND COMMERCE: RECONCILIATION PROVISIONS—Continued

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991–95
4473 Home and community-based services waivers:						
(1) Clarify definition of room and board	0	0	0	0	0	0
(2) Treatment of persons with mental retardation or a related condition in a decertified facility	0	0	0	0	0	0
(3) Scope of respite care	0	0	0	0	0	0
(4) Permitting adjustment in estimates to take into account preadmission screening requirement	0	0	0	0	0	0
4474 Provisions relating to frail elderly demonstration project waivers:						
(a) Expansion of waivers	([2])	([2])	([2])	([2])	([2])	([2])
(b) Application of special improvement rules	([2])	([2])	([2])	([2])	([2])	([2])
4481 Right to self-determination with respect to health care	([2])	1	1	1	1	4
4482 Provisions relating to quality of physician services	([2])	1	1	1	1	4
4483 Clarification of authority of inspector general	0	0	0	0	0	0
4484 Notice to State medical boards when adverse actions taken	0	0	0	0	0	0
4485 Miscellaneous provisions	([2])	([2])	([2])	0	0	([2])
Medicaid Subtotal	61	10	−114	−134	−160	−337
SUBTITLE C—OTHER PROVISIONS						
4502 NRC fees (offsetting receipts)	−287	−298	−310	−323	−336	−1,554
4511 Railroad safety user fees (offsetting receipts)	−20	−35	−36	−38	−40	−169
4521 U.S. travel and tourism user fees (offseting receipts)	−10	−19	−18	−20	−18	−85
4531 EPA user fees (offsetting receipts)	−4	−5	−5	−5	−5	−24
Other total direct spending effects	−321	−357	−369	−386	−399	−1,832
Direct spending total	−2,017	−3,719	−5,332	−6,934	−8,662	−26,664
State and local effects	−85	−180	−275	−295	−325	−1,160

[1] No direct spending would result from this provision, but a small amount (less than $500,000) would be required from funds subject to Appropriation Committee action.
[2] Cost or saving estimated at less than $500,000.
[3] Part B monthly premium amounts: 1991, $30.90; 1992, $32.20; 1993, $37.00; 1994, $41.70; 1995, $44.70.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the reported bill will reduce inflation by reducing Medicare and Medicaid program outlays by over $27 billion over the next 5 years.

SECTION-BY-SECTION ANALYSIS

PART 2—PROVISIONS RELATING TO PARTS A AND B

Subpart B—Other Provisions

Section 4121—Extension of secondary payor provisions

Under current law, individuals who become disabled and eligible to receive benefits under the Social Security Act are entitled to Medicare benefits after they satisfy a waiting period. Similarly, individuals with end stage renal disease may become entitled to Medicare benefits after an initial waiting period. In both cases, the Medicare program is a secondary payer to any private health insurance benefits that such individuals may have.

(a) Extension of renal disease period from 12 to 18 months.—The Committee bill would extend provisions of current law with respect to Medicare as a secondary payer to private health benefits for persons with End Stage Renal Disease. The current requirement for private coverage to remain primary for 12 months would be extended to 18 months, effective for group health plan years beginning on or after January 1, 1991.

(b) Elimination of sunset for transfer of data provision.—This provision of the Committee bill would extend the authority for Medicare contractors (intermediaries and carriers) to inquire of employers concerning the coverage of any group health benefits to which an individual may be eligible in order to apply the Medicare secondary payer rules more effectively.

(c) Elimination of sunset on application to disabled beneficiaries.—The Committee bill would extend the expiring authority for private group health benefit plans to be designated the primary payer for covered individuals who are also entitled to Medicare benefits because of a disabling condition. The sunset provision in current law of December 31, 1991 for this provision would be deleted.

PART 3—PROVISIONS RELATING TO BENEFICIARIES

Section 4201—Part B premium

Part B of Medicare is a voluntary program financed by premiums paid by enrollees and by general revenues of the Federal government. The premium amount is the same for all enrollees and is determined under current law by the lesser of (1) an amount sufficient to cover one-half of estimated program costs, or (2) the premium amount for the previous year increased by the percentage increase in the cost of living adjustment (COLA) provided to Social Security recipients. From 1984 through 1990, the premium was set at 25 percent of program costs. The premium in 1990 is $28.60 per month.

The Committee bill would establish the premium for 1991 at $30.90 as a result of increasing the 1990 premium by the estimated COLA increase and adding an additional $1. For 1992 and each subsequent year through 1995, the premium would be set at an amount that would cover 25 percent of estimated program costs.

Subtitle B—Medicaid Program

PART 1—REDUCTIONS IN SPENDING

Section 4403—Computer matching and privacy revisions

For a discussion of this provision, see House Report 101-768 (to accompany H.R. 5450).

PART 2—PROTECTION OF LOW-INCOME MEDICARE BENEFICIARIES

Section 4411—Extending Medicaid payment for Medicare premiums for certain individuals with income below 125 percent of the official poverty line

Under current law, States are required to pay Medicare premiums (including the Part A premium where applicable), deductibles, and coinsurance for elderly and disabled Medicare beneficiaries whose incomes are at or below 100 percent of the Federal poverty line and whose countable resources are at or below twice the resource standard used under the Supplemental Security Income (SSI) program ($4000 for an individual). Federal Medicaid matching funds are available to States, at the regular matching rates for services, for these Medicare cost-sharing expenses on behalf of qualified Medicare beneficiaries. This Medicare buy-in requirement, enacted in the Medicare Catastrophic Coverage Act of 1988, is being phased in. As of January 1, 1991, almost all States will be required to provide this coverage to Medicare beneficiaries with incomes at or below 95 percent of the poverty level.

Part 3 of subtitle A of the Committee bill would increase the monthly Part B premium to $30.90 per month in 1991, and $46.70 per month by 1995. In addition, the bill would raise the Part B deductible from $75 to $100. These cost-sharing increases will have a disproportionate impact on low-income beneficiaries who are not protected under current law, especially those with incomes just below and a little above the poverty level ($6,280 per year, or $523 per month for an individual, $8,420 per year or $702 per month for a couple). In the view of the Committee, the Federal government should not ask poor and near-poor Medicare beneficiaries to bear the brunt of increases in cost-sharing obligations intended to reduce the Federal deficit.

The Committee bill would extend Medicaid coverage for Medicare Part B premiums to beneficiaries with incomes below 125 percent of the Federal poverty level and countable resources at or below twice the SSI level. Unlike qualified Medicare beneficiaries under current law, these individuals would not be entitled to have payment made on their behalf for Medicare deductibles or co-insurance. To avoid further fiscal stress on State budgets, the cost of this premium buy-in requirement would be fully assumed by the Federal government in the form of a 100 percent Medicaid matching

rate. This requirement would take effect on January 1, 1991, the date on which the Part B premium would begin to increase under Part 3 of Subtitle A of the Committee bill.

The Committee bill would also correct an anomaly in the current Medicare buy-in requirement, and avoid a similar problem with respect to the new buy-in group. Under current law, Social Security beneficiaries receive a cost-of-living adjustment (COLA) in January of each year. The Federal poverty income guidelines are also adjusted for inflation annually. However, the revision is not published before the middle of February of each year. This results in a period of at least 6 weeks during which an individual's income may increase above the previous year's poverty level due to the Social Security COLA. To resolve this matter, the Committee bill would provide that, for purposes of the buy-in of all cost-sharing or just the Part B premium, the income of a Medicare beneficiary would not include any amounts attributable to COLA increases during the first 3 months of each calendar year (assuming mid-February publication of the revised poverty income guidelines).

DISSENTING VIEWS ON THE MEDICAID RECONCILIATION SECTION

The reconciliation bill is supposed to be a budget-cutting vehicle. However, this package clearly demonstrates how this legislation is being used at the very last minute to include new Medicaid spending provisions which will add new financial burdens on both the Federal Government and the States. Irrespective of the various merits of these Medicaid provisions, the spending levels that these measures will produce violate any sense of restraint on increases in the Federal budget.

It should be noted that this year, for the first time, we are paying for these Medicaid expansions with spending cuts. The spending cuts in this package, which are due primarily to the "Prudent Pharmaceutical Purchasing" provision, result in greater savings than required by the budget resolution. For doing such a "good job", we are rewarding ourselves by mandating a new Medicaid expansion. This "surplus" is illusory and will ultimately have a detrimental impact on the five-year deficit reduction package. This provision provides for a phase-in of Medicaid coverage for children between the ages 7 and 18 beginning in Fiscal Year 1991. The CBO cost estimate for the various parts of this program is $35 million in FY 91, increasing each year until FY 95 when it will cost $330 million—resulting in a five-year cost of $935 million. For the first five years this program will be paid for with the savings in this package. But how will it be paid for in the sixth through the twelfth years? The phase-in will not be complete until 2002.

We must also be aware that the Federal costs of these Medicaid provisions, while great, are only half the story. The States face equally large expenditures if these Medicaid expansions are enacted. Last year, 48 Governors signed a letter under the auspices of the National Governors Association asking for a moratorium on further Medicaid mandatory expansions for two years. These governors were responding to the fact that Medicaid expenditures have doubled over the past five years. The rapid growth of Medicaid expenditures is virtually causing panic in every State capital. Most States are required by their constitutions to balance their budgets. Therefore, because the Federal government is mandating these expansions, the States will have less and less discretion with respect to how they spend their limited budgets.

Given the crisis that we are facing with respect to the deficit we can not allow back door attempts to sneak in legislation that will ultimately increase Federal spending. This budget reconciliation is just the beginning. Provisions which essentially create new entitle-

ments will only balloon Federal funding and exacerbate the budget crisis. Legislating in this manner is irresponsible and we urge our colleagues to reject this package.

NORMAN F. LENT.
CARLOS J. MOORHEAD.
BILL DANNEMEYER.
THOMAS J. BLILEY, Jr.
JACK FIELDS.
MICHAEL G. OXLEY.
HOWARD C. NIELSON.
DAN SCHAEFER.
JOE BARTON.
SONNY CALLAHAN.
J. ALEX MCMILLAN.
EDWARD MADIGAN.

DISSENTING VIEWS OF HON. WILLIAM E. DANNEMEYER CONCERNING THE BUDGET RECONCILIATION PACKAGE BEFORE THE ENERGY AND COMMERCE COMMITTEE

The Energy and Commerce Committee in this legislation has agreed to reduce overall projected Medicare Part B outlays by $27 billion over the next five years. Most of these reductions—about $16 billion—will come from lower reimbursement rates for physicians and other Part B providers. Approximately $11 billion will be raised from Medicare beneficiaries by raising the Part B deductible from $75 to $100. The Congressional Budget Office (CBO) estimates this increase will raise $2.6 billion over 5 years. In addition, the Committee has decided to extend current law with respect to the Part B premium, so that it continues to raise 25 percent of program expenditures.

This CBO treatment of this last change deserves special comment. Although this provision simply maintains current law, the Committee has counted this as a significant revenue raiser—$8.6 billion over 5 years—because the provision in current law expired on October 1. In my opinion, an extension of current law should not count toward our overall deficit reduction goal. This is but one example of the "smoke and mirrors" approach in this reconciliation package.

Under this approach, many providers will be forced to restrict access to Medicare patients. As physicians receive less and less reimbursement for services provided to Medicare patients, they will conclude that it is too expensive to care for our senior citizens, and they will react by either accepting fewer and fewer Medicare patients or by forcing seniors to wait longer for care—de facto rationing.

Mr. Chairman, this is not only undesirable, it is unnecessary. If this Congress were to wield the budget ax and cut the discretionary domestic portion of the budget and foreign aid, we could achieve the Budget Summit's goal of a balanced budget in five years with no cuts in Medicare and no new taxes. I know it may sound amazing, but this is true. I have attached some information that lays out the specifics of my budget proposal.

Every time the Congress approves a new Federal program, or increases the authorization for an existing one, we are indirectly harming the Medicare recipient. As the discretionary domestic portion of the Federal budget continues to grow, there will be more and more pressure on the Congress to exercise budgetary restraint at the expense of high quality care for seniors and others who are eligible for Medicare benefits.

My point is a simple one: Some day, all the many special interest groups that care about the future of Medicare—those who represent the Medicare patient as well as the physicians and hospitals who provide the Medicare services—will have to adopt a new strat-

egy. That strategy will require these organizations to identify specific and deep cuts in the discretionary domestic portion of the budget. They will have to confront upper middle class artists and affluent farmers in the halls of Congress. Congress will have to choose between slashing Medicare reimbursement rates or eliminating the National Endowment for the Arts.

When these confrontations arise, those portions of the budget best described as luxuries in a time of necessity will undoubtedly lose. While it may sound harsh, the Medicare community must realize that we have entered a time of budgetary zero-sum politics, where no one can win without someone else losing. I think we can all agree that it makes little sense to squeeze the Medicare program while so many other frivolous Federal programs continue to grow and prosper.

EXPANDING MEDICAID DURING A BUDGETARY CRISIS

At a time when we are about to increase the Federal debt by more than $300 billion, it is simply inconceivable for this Committee to be expanding a Federal entitlement program. In fact, it is inconceivable that we should be expanding any Federal program at this time.

Yet the Reconciliation package does exactly that. It includes two well-intentioned, but potentially expensive expansions of the Medicaid program. Both of these proposals would expand Medicaid coverage for children. One even establishes the disturbing precedent of providing 100 percent Federal funding for a small category of eligible children, waiving for the first time the traditional State-Federal partnership. Although worthy in intent, these explanations simply perpetuate the business-as-usual atmosphere that has brought about the current budgetary stalemate.

Rather than using questionable cost estimates from the Congressional Budget Office and the Office of Management and Budget—which have embarrassed this Committee in the past—to justify the expansion of existing programs, we should be looking for ways to exceed the budgetary savings required in the budget resolution. In fact, I offered two amendments to do just this, and both were rejected by the Committee. One amendment would have allowed my home State of California to move forward with its own cost-efficient approach to nursing home reform for Medicaid recipients who reside in these facilities. The State of California estimates that its own ambitious approach would deliver the same quality of care to nursing home residents in a more cost-effective manner. Indeed, according to the CBO, my amendment would have reduced Federal Medicaid outlays by $280 million over the next five years.

In other areas, such as the Clean Air Act, California has received an exemption from Federal regulation in order to pursue its own regulatory approach to cleaning our skies. I see nothing wrong with asking my colleagues to grant California with a similar exemption in this area.

My other amendment would have eliminated the Medicaid expansion for children up to the age of twelve. As with many other Medicaid expansions in recent years, this one begins modestly, costing only $30 million in the first year, but rapidly escalates to more

than $330 million annually by 1995. Again, the Committee, in its business-as-usual mode, rejected my amendment to keep the program at its present size.

The American people have written and phoned and telegrammed their utter disdain for the U.S. Congress in these last few days. To them, this is not business as usual. Indeed, it is a crisis of the first magnitude that has led many to question whether our Congress has lost the ability to function. I respectfully submit that this reconciliation package does nothing to allay these legitimate fears.

BILL DANNEMEYER.

BUDGET RECOVERY ACT

[in billions of dollars]

Functions	Fiscal year—						5 yrs
	1990	1991	1992	1993	1994	1995	
National defense:							
BA	299.6	289.1	289.1	289.1	289.1	289.1	.....
O	299.9	294.1	289.1	289.1	289.1	289.1	.....
Savings [1]	.....	−12.4	−26.8	−36.7	−52.6	−62.4	−190.0
International affairs:							
BA	19.0	13.4	14.0	14.5	15.0	15.8	.....
O	15.5	11.9	12.6	13.0	13.1	13.8	.....
Savings [2]	.....	−5.9	−6.2	−6.4	−6.6	−6.9	−32.0
Science, space, and technology:							
BA	14.6	14.7	14.9	15.0	15.2	15.3	.....
O	14.2	14.3	14.5	14.6	14.8	14.9	.....
Savings	.....	−.9	−1.2	−1.5	−2.0	−2.5	−8.1
Energy:							
BA	4.9	4.9	5.0	5.0	5.1	5.1	
O	3.3	3.3	3.4	3.4	3.4	3.5	.....
Savings	.....	−.7	−1.0	−1.6	−1.9	−1.8	−7.0
Natural resources and environment:							
BA	17.7	18.0	18.2	18.4	18.6	18.8	.....
O	17.8	18.0	18.2	18.4	18.6	18.8	.....
Savings	.....	−.9	−1.4	−1.8	−2.0	−2.4	−8.5
Agriculture:							
BA	13.9	14.7	17.7	18.6	17.9	17.0	.....
O	12.5	13.1	13.7	14.3	14.9	14.3	.....
Savings	.....	−1.0	−3.3	−1.4	−.2	0	−5.9
Commerce and housing credit:							
BA	17.9	85.5	85.4	41.6	−6.5	2.6	.....
O	75.7	87.0	81.4	39.7	−9.2	−3.2	.....
Savings	0	0	0	0	0	0	0
Transportation:							
BA	31.2	31.5	31.8	32.1	32.5	32.8	.....
O	29.5	29.8	30.1	30.4	30.7	31.0	.....
Savings	.....	−.9	−1.9	−2.7	−3.6	−4.4	−13.6
Community and regional development:							
BA	9.8	9.2	8.9	9.0	9.5	9.6	.....
O	8.3	8.3	8.4	8.3	8.4	8.5	.....
Savings	.....	−.3	−.2	−.4	−.5	−.7	−2.1
Education, training, employment and social services:							
BA	40.4	42.3	43.6	44.4	46.3	48.1	.....
O	38.3	41.1	41.3	42.3	44.1	46.0	.....
Savings	.....	−.7	−1.7	−1.7	−1.3	−.9	−6.3
Health:							
BA	61.1	66.3	73.9	81.3	89.6	98.5	.....
O	58.2	65.5	73.1	80.3	87.5	94.5	.....
Savings	.....	0	−.2	−.6	−1.4	−3.0	−5.2
Medicare:							
BA	116.2	122.4	133.5	147.5	161.9	177.2	.....

BUDGET RECOVERY ACT—Continued

[In billions of dollars]

Functions	Fiscal year—						5 yrs
	1990	1991	1992	1993	1994	1995	
O	96.9	104.9	120.0	134.4	150.5	168.0	.....
Savings [3]	.....	0	0	0	0	0	0
Income security:							
BA	184.9	196.8	202.6	210.9	219.7	226.6	.....
O	148.5	155.2	162.2	169.5	177.1	185.1	.....
Savings	.....	−5.3	−5.6	−5.8	−8.2	−7.1	−32.0
Social Security:							
BA	305.6	339.5	367.0	396.2	427.5	460.9	.....
O	248.7	266.3	283.7	301.4	318.9	337.2	.....
Savings	.....	0	0	0	0	0	0
Veterans benefits and services:							
BA	30.6	31.9	33.1	34.1	35.1	36.1	.....
O	29.4	31.5	32.6	33.6	35.9	35.5	.....
Savings	.....	−.2	−.1	−.2	−.4	−.6	−1.5
Administration of justice:							
BA	12.4	13.5	13.6	13.8	14.0	14.2	.....
O	10.5	12.0	12.5	13.0	13.6	14.2	.....
Savings	.....	−.8	−1.7	−1.9	−1.8	−1.8	−8.0
General government:							
BA	12.0	11.7	11.9	11.7	11.7	11.8	.....
O	10.6	11.1	11.3	11.4	11.5	11.6	.....
Savings	.....	−.6	−.7	−.4	−.5	−.8	−3.0
Net interest: BA/O	181.4	193.4	201.3	207.6	208.2	205.9	.....
Savings	.....	−2.4	−5.9	−9.5	−13.8	−18.5	−50.1
Und. Off. Rcpts.: BA/O	−36.7	−38.6	−40.7	−42.4	−44.7	−47.1	.....
Savings	.....	0	0	0	0	0	0
Total:							
BA	1,337.5	1,460.6	1,525.7	1,549.4	1,567.2	1,640.1	.....
O	1,262.5	1,322.3	1,368.6	1,382.3	1,386.3	1,441.1	.....
Savings	.....	−33.0	−57.9	−72.6	−96.8	−113.9	−374.2
Revenues	1,044.2	1,121.4	1,194.2	1,278.6	1,363.0	1,441.1	.....
Deficit [4]	−218.3	−200.9	−174.4	−103.7	−23.3	0	.....
ADDENDA							
Program savings:							
Defense [1]	.....	−12.4	−26.8	−36.7	−52.6	−62.4	−190.9
Foreign aid [2]	.....	−5.9	−6.2	−6.4	−6.6	−6.9	−32.0
Medicare and Medicaid	.....	0	0	0	0	0	0
Retirement (Social Security, Federal, military)	.....	0	0	0	0	0	0
Unemployment	.....	0	0	0	0	0	0
Veterans comp. and benefits	.....	0	0	0	0	0	0
Other entitlements [3]	.....	−5.3	−3.7	−4.0	−5.2	−3.8	−22.0
Nondefense discretionary [5]	.....	−7.0	−15.3	−16.0	−18.6	−22.3	−79.2
Net interest	.....	−2.4	−5.9	−9.5	−13.8	−18.5	−50.1
Total outlays reductions	.....	−33.0	−57.9	−72.6	−96.8	−113.9	−374.2
Tax increases	.....	0	0	0	0	0	0

[1] Freezes defense spending for 5 years at fiscal year 1991 BA level assumed by BS.
[2] Reduces annual foreign aid amounts by one-third.
[3] Entitlements allowed to grow annually by 9.1 percent, 5.1 percent, 5 percent, 5 percent, and 5 percent, and discretionary by 0 percent in 1991 and 1 percent each year thereafter; this results in a 4.5 percent annual cap on combined income security function.
[4] Deficit levels assumed to be revised G–R–H targets for each year.
[5] 1 percent growth generally allowed each year.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, October 13, 1990.

Hon. LEON E. PANETTA,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Yesterday the committee approved changes in existing law under its jurisdiction in order to meet the reconciliation instructions contained in the Budget Resolution. The committee recommendations meet the target for savings in the first year, and the five-year savings will exceed the target by a substantial amount.

As requested, enclosed are bill language and report language, along with a CBO cost estimate of the recommendations we have made.

Sincerely,

G.V. (SONNY) MONTGOMERY,
Chairman.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

Require Mandatory Disclosure of Social Security Numbers

Current law does not require claimants for benefits administered by the Department of Veterans Affairs to provide Social Security numbers to the Department as part of their application for benefits.

Section 11053 of the reported bill would require claimants for DVA benefits to disclose their Social Security numbers to permit verification of the claimant's receipt of Social Security or to ascertain whether the claimant has died in order to prevent fraudulent payment of benefits.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 12, 1990.

Hon. G.V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the Reconciliation recommendations of the Committee on Veterans' Affairs, as ordered transmitted to the House Committee on the Budget, October 12, 1990.

The estimates included in the attached table represent the 1991–1995 effects on the federal budget and on the budget resolution baseline of the Committee's legislative proposals affecting spending. CBO understands that the Committee on the Budget will be re-

sponsible for interpreting how savings contained in these legislative proposals measure against the budget resolution reconciliation instructions.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer, Director).

PROVISIONS REDUCING SPENDING IN PROGRAMS WITHIN THE JURISDICTION OF THE HOUSE COMMITTEE ON VETERANS' AFFAIRS

[Outlays in millions of dollars]

	Section	1991	1992	1993	1994	1995	5-year total
	DIRECT SPENDING SAVINGS						
11001.	Limit Inheritance of Benefits by Remote Heirs	−125	−154	−12	0	0	−291
11002.	Eliminate Pension Disability Presumption at Age 65..	−17	−39	−60	−89	−108	−313
11003.	Reduce Pension to Medicaid Nursing Home Residents.	−22	−84	−18	0	0	−124
11004.	End Benefits for Remarried Surviving Spouses	−19	−45	−72	−107	−131	−374
11005.	4.5% COLA Rounded Down with 1-Mo. Delay and Repayment in FY 1992.	−49	33	−9	−10	−9	−44
11011.	Medical Care Cost Recovery	−113	−192	−149	−135	−145	−734
11012.	$2 Prescription Copayment	−66	−19	0	0	0	−85
11013.	Modify Medical Care Categories and Copayment Requirements.	−35	−10	0	0	0	−45
11021.	Limit Voc. Rehab. to Vets. Rated 20% or More	−20	−40	−40	−40	−40	−180
11031.	File MHLP Claims Prior to Resale	−4	−4	−3	−2	−1	−14
11032.	Increase Loan Fees by 0.5 Percentage Point, 1-Yr	−63	−5	−*	2	5	−61
11033.	Mortgage Default Assistance	−10	−3	−1	*	2	−12
11034.	Entitle Reservists to Home Loan Guarantees	−12	−12	−8	−4	1	−35
11041.	Eliminate Headstone Allowance	−3	−4	−4	−4	−4	−19
11042.	Limit Plot Allowance	−27	−30	−30	−30	−30	−147
11051.	Pension Income Verification	−28	−140	−185	−193	−197	−743
11052.	Secondary Effects of Willful Misconduct	−10	−35	−63	−100	−126	−334
11053.	Require SSNs and Match Death Records	−4	−7	−9	−12	−15	−47
	Direct Spending Total	−627	−790	−663	−724	−798	−3,602
	Reconciliation Targets	−620	−645	−670	−695	−720	−3,350
	Difference	−7	−145	7	−29	−78	−252
	AUTHORIZATIONS						
11002.	Eliminate Pension Disability Presumption at Age 65..	2	2	2	2	2	10
11011.	Add 300 FTEE to Collection Activity of MCCR Fund..	0	9	9	9	10	37
11013.	Modify Medical Care Categories and Copayment Requirements.	−70	−25	−13	−7	0	−115
11053.	Require SSNs and Match Death Records	1	*	*	*	*	1
	Total Authorizations	−67	−14	−2	4	12	−67
	Net Budget Impact	−694	−804	−665	−720	−786	−3669
	Impact on State Governments	22	84	18	0	0	124

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, October 15, 1990.

Hon. LEON PANETTA,
Chairman, Committee on the Budget,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reconciliation instruction contained in H. Con. Res. 310, I am transmitting the reconciliation recommendations reported without recommendation by the Committee on Ways and Means on October 10, 1990. As you requested, enclosed are the statutory and report language, explanatory material, CBO cost estimates of the legislation, and dissenting and additional views.

Total deficit reduction achieved by the Committee on Ways and Means in fiscal year 1991 is $18.545 billion, and $194.403 billion in fiscal year 1991 through 1995. This amount of deficit reduction fully satisfies the requirements imposed on the Committee by the reconciliation instruction.

With warm regards, I am,
Sincerely,

DAN ROSTENKOWSKI,
Chairman.

CONTENTS

I. SUMMARY

TITLE XII—COMMITTEE ON WAYS AND MEANS: SPENDING

SUBTITLE C—PROVISIONS RELATING TO MEDICARE PARTS A AND B

2. Medicare secondary payer

As a result of changes made in OBRA '89, the Department of Health and Human Services is able to use data provided by the Social Security Administration and the IRS to improve identification and collection of Medicare secondary-payer cases. This information is particularly useful for identifying spouses of beneficiaries who may be covered by an employer health plan. This provision, scheduled to expire after September 30, 1991, would be extended through September 30, 1995.

Medicare is secondary payer for disability beneficiaries who are covered by a "large group health plan." A large group health plan may not take into account that an active, disabled individual is entitled to this provision. This provision, scheduled to expire before January 1, 1992, would be extended through September 30, 1995.

SUBTITLE D—PROVISIONS RELATING TO MEDICARE PART B PREMIUM AND DEDUCTIBLE

1. Part B premium

The Part B premium would be set as follows: $32.40 in 1991, $36.000 in 1992, $40.50 in 1993, $44.00 in 1994 and $46.50 in 1995.

2. Part B deductible

The Part B deductible would be increased to $100 in 1991, $125 in 1992 and in subsequent years.

SUBTITLE E—USER FEES

3. Social Security Overpayments

Recovery of Overpayments from Former Social Security Beneficiaries through Tax Refund Offset.—The Social Security Administration would be authorized to recover overpayments from former social security beneficiaries by having the IRS offset the former beneficiary's tax refund. This authority would remain in effect so long as the existing Government-wide tax refund offset program remains in effect (currently, until January 10, 1994).

TITLE XIII—REVENUE PROVISIONS

Subtitle C—Other Revenue Increases

6. Employment Tax Provisions

A. Increase the Cap on Wages and Self-Employment Income Subject to the Medicare Hospital Insurance Payroll Tax

The Committee agreed to increase the cap on wages subject to the HI payroll tax to $73,000 for 1991, as compared with a projected $54,300 under present law. As under present law, the cap is indexed according to changes in average wages in the economy.

B. Coverage of State and local Government Employees Under Medicare

The Committee agreed to a provision requiring coverage of State and local government employees under Medicare. Medicare hospital insurance (HI) tax is phased-in so that the employer and em-

ployee each pays a tax of .8 percent in 1992 (1.6 percent total); 1.35 percent in 1993 (2.70 percent total); and 1.45 percent in 1994 and thereafter (2.9 percent total).

C. Extend Social Security Retirement Coverage to State and Local Employees not Covered by a Pension Plan

The Committee agreed to a provision requiring Social Security coverage for State and local employees who are not covered under a retirement plan offered by a State or local employer. The provision is effective with respect to services performed after September 30, 1990.

E. Payroll Tax Deposit Stabilization

The Committee agreed to an amendment to provide that employer deposits of withheld income and payroll taxes equal to or greater than $100,000 must be made by the close of the next banking day for all calendar years. The provision is effective for amounts required to be deposited after December 31, 1990.

II. DETAILED EXPLANATION OF PROVISIONS

TITLE XII—COMMITTEE ON WAYS AND MEANS: SPENDING

Subtitle C—Provisions Relating to Medicare Parts A and B

Sec. 12202—Medicare Secondary Payer

Present Law

(a) Identification of Medicare Secondary Payer Situations—Medicare is a secondary payer under specified circumstances when individuals are covered by other third party payers. Medicare is secondary payer to automobile, medical, no-fault and liability insurance, and to employer health plans.

Medicare is secondary payer to certain employer health plans for aged and disabled beneficiaries. Medicare is also secondary payer to employer group health plans for items and services provided to end stage renal disease (ESRD) beneficiaries during the first 12 months of a beneficiary's entitlement to Medicare on the basis of ESRD.

The Department of Health and Human Services (HHS) currently identifies Medicare secondary payer cases in the following ways: beneficiary questionnaires, provider identification of third party coverage when services are provided, and data transfers with other Federal and State agencies.

In addition, as a result of changes made in the OBRA '89, HHS is able to use data provided by the Social Security Administration and the Internal Revenue Service to improve identification and collection of Medicare secondary payer cases. This information is par-

ticularly useful for identifying spouses of beneficiaries who may be covered by an employer health plan.

HHS's contractors use this new information to contact employers in writing to determine whether the employer provided health coverage and the date of such coverage. Current restrictions on the disclosure of information under the Internal Revenue Code and the Privacy Act also apply to the new information provided by SSA and IRS to HCFA.

This provision is scheduled to expire after September 30, 1991.

(b) Medicare as Secondary Payer for the Disabled—Medicare is secondary payer for disability beneficiaries who are covered by a "large group health plan". A large group health plan may not take into account that an active, disabled individual is entitled to this provision.

This provision is scheduled to expire before January 1, 1992.

Explanation of Provision

(a) Identification of Medicare Secondary Payer Situations—The provision, scheduled to expire after September 30, 1991, would be extended through September 30, 1995.

(b) Medicare as Secondary Payer for the Disabled—This provision, scheduled to expire before January 1, 1992, would be extended through September 30, 1995.

Effective Date

Effective upon the date of enactment.

Subtitle D—Provisions Pertaining to Medicare Part B Premium and Deductible

Sec. 12301—Part B Premium

Present Law

Part B is a voluntary program financed by premiums paid by aged, disabled and chronic renal disease enrollees and by general revenues of the Federal government. The premium rate is derived annually based partly upon the projected costs of the program for the coming year. Under prior law, the premium rate was changed on July 1 of each year. The Social Security Amendments of 1983 moved the premium increase to January 1 of each year to coincide with the changed date for the annual Social Security cash benefit cost-of-living adjustment (COLA).

Ordinarily, the premium rate is the lower of (1) an amount sufficient to cover one-half of the costs of the program for the aged or (2) the current premium amount increased by the percentage by which cash benefits were increased under the COLA provisions of the Social Security program.

Low-income beneficiaries are protected from the full effect of premium increases by two provisions. First, premium increases are constrained to prevent social security benefits, from which the premiums are deducted, from declining in absolute amount. Second, the Medicare Catastrophic Coverage Act provided for Medicaid payment of premiums for individuals below the poverty line.

From 1984 through 1990, the premium was set at 25 percent of program costs for aged beneficiaries. The remaining 75 percent was covered by general revenues. In CY 1990, the basic Part B premium is $28.60.

Proposed Amendment to Summit Agreement

The Part B premium would be set as follows: $32.40 in 1991, $36.00 in 1992, $40.50 in 1993, $44.00 in 1994 and $46.50 in 1995.

Effective Date

For premiums beginning January 1, 1991.

Subtitle E—User Fees

Explanation of Provision

4. Recovery of Overpayments from Former Social Security Beneficiaries Through Tax Refund Offset

Present Law

A Federal agency that is owed a past-due, legally enforceable debt, other than an overpayment under title II of the Social Security Act, can collect it by having the Internal Revenue Service (IRS) withhold or reduce the debtor's income tax refund. To obtain repayment via a tax refund offset, the agency to which the debt is owed must:

(i) notify the individual of its intention to recover the debt through the tax system;

(ii) provide the individual with at least 60 days to present evidence that all or part of the debt is not past-due or not legally enforceable; and

(iii) consider any evidence presented by the individual and make a final determination that the debt is in fact owed and legally enforceable.

After the agency notifies the IRS of its final determination, the IRS reduces the amount of the individual's income tax refund, if any; pays this amount to the agency; and notifies the individual of the amount by which his tax refund has been reduced to repay his debt.

Explanation of Provision

Social security overpayments to former beneficiaries would be recovered by withholding the amount due from Federal income tax refunds. This recovery method would be used only when benefit adjustments or direct payments by the overpaid individual have not been successful.

Specifically, the prohibition against recovering title II overpayments via a tax refund offset would be eliminated for former beneficiaries. (Current beneficiaries would continue to be exempt from the tax refund offset program.)

After being informed by the Social Security Administration (SSA) of its intention to recover an overpayment via a tax refund offset, former beneficiaries who are eligible to apply for a waiver of the overpayment would be given the opportunity to do so. In addition, the IRS would be required to establish a procedure by which a spouse could present his or her share of a joint tax refund from being withheld in an overpayment recovery action. The IRS would also be required to notify individuals who file joint returns of this

procedure when it informs them that it is withholding their tax refund.

Effective Date

The proposal would take effect January 1, 1991, and would remain in effect as long as the existing, government-wide offset remains in effect (currently, until January 10, 1994).

TITLE XIII—REVENUE PROVISIONS

Subtitle C. Other Revenue Increases

6. Employment Tax Provisions

a. Increase in dollar limitation on amount of wages and self-employment income subject to the Medicare hospital insurance payroll tax (sec. 13341 of the bill and sec. 3121 of the Code)

Present Law

As part of the Federal Insurance Contributions Act (FICA), a tax is imposed on employees and employers up to a maximum amount of employee wages. The tax is comprised of two parts: old-age, survivor, and disability insurance (OASDI) and Medicare hospital insurance (HI). For wages paid in 1990 to covered employees, the HI tax rate is 1.45 percent on both the employer and the employee on the first $51,300 of wages and the OASDI tax rate is 6.2 percent on both the employer and the employee on the first $51,300 of wages.

Under the Self-Employment Contributions Act of 1954 (SECA), a tax is imposed on an individual's self-employment income. The self-employment tax rate is the same as the total rate for employers and employees (i.e., 2.9 percent for HI and 12.40 percent for OASDI). For 1990, the tax is applied to the first $51,300 of self-employment income and, in general, the tax is reduced by any wages for which employment taxes were withheld during the year.

The cap on wages and self-employment income subject to FICA and SECA taxes is indexed to changes in the average wages in the economy. In 1991, the amount of wages or self-employment income subject to the tax is projected to be $54,300.

Reasons for Change

The committee believes that increasing the cap on wages and self-employment income subject to tax with respect to the HI tax will improve the progressivity of the tax system. In addition, increased revenues under the bill will provide necessary funding for the Hospital Insurance Trust Fund and will enhance its long-term solvency.

Explanation of Provision

The bill increases the cap on wages and self-employment income considered in calculating HI tax liability to $73,000. As under present law, for years beginning after 1991, this cap is indexed to changes in the average wages in the economy. The OASDI wage cap remains at the level provided under present law.

Effective Date

The provision is effective on January 1, 1991.

b. Extending Medicare coverage of, and application of hospital insurance tax to, all State and local government employees (sec. 13342 of the bill and sec. 3121 of the Code)

Present law

Before enactment of the Consolidated Omnibus Reconciliation Act of 1985 (COBRA), State and local workers were covered under Medicare only if the State and the Secretary of Health and Human Services entered into a voluntary agreement providing for such coverage. In COBRA, the Congress extending Medicare coverage (and the corresponding hospital insurance (HI) payroll tax) on a mandatory basis to State and local government employees (other than students) hired after March 31, 1986.

For wages paid in 1990 to Medicare-covered employees, the total HI tax rate is 2.9 percent of the first $51,300 of wages. The tax is divided equally beween the employer and the employee.

Reasons for Change

The committee believes Medicare coverage should be extended to all employees of State and local governments. In addition, evidence suggests that a substantial number of former employees of State and local governments are entitled to receive Medicare coverage due to other employment or spousal Medicare eligibility. These employees contribute less to the financing of the Medicare system than employees who are entitled to the same benefits, but who spend their entire working career in Medicare-covered employment. Therefore, the committee believes that State and local employees hired before April 1, 1986, (and their employers) should be liable for the HI tax in the same manner as is required of Federal Government employees, State and local government employees hired after March 31, 1986, and private sector employees.

Explanation of Provision

The bill requires coverage of all employees of State and local governments under Medicare without regard to the employee's date of hire. The 2.9 percent HI payroll tax rate is imposed on employers and employees and is phased in with respect to newly covered State and local government employees so that the tax rate is 1.6 percent in 1992; 2.7 percent in 1993; and 2.9 percent in 1994 and thereafter. The present-law student exception is retained with respect to students employed in public schools, colleges, and universities. Coverage may, as under present law, continue to be provided to such individuals at the option of the State government.

In the case of employees who are required to pay the HI tax as a result of this provision and who meet certain other requirements, certain services performed for a State and local government prior to the effective date are deemed to have been covered by the HI tax for purposes of determining Medicare eligibility. Prior State and local service is counted regardless of whether such service was continuous.

The provision authorizes the appropriation of funds to the HI trust fund for any additional cost arising by reason of this provision.

The Secretary of Health and Human Services is required to provide a process by which employees may provide evidence of prior State and local governmental service if such service is necessary to qualify for coverage under the program.

Effective Date

The provision is effective with respect to services performed after December 31, 1991.

c. Extend social security retirement coverage (OASDI) to State and local government employees not covered by a public employee retirement program (sec. 13343 of the bill and sec. 3121 of the Code)

Present Law

Employees of State and local governments are covered under social security by voluntary agreements entered into by the States with the Secretary of Health and Human Services (HHS). After a State has entered into such an agreement, it may decide, or permit its political subdivisions to decide, whether to include particular groups of employees under the agreement. All States have entered into such agreements. The extent of coverage is high in some States and limited in others. Nationally, about 72 percent of State and local workers are covered by social security.

With certain exceptions, a State has broad latitude to decide which groups of State and local employees are covered under its agreement. In some cases in which States have elected not to provide coverage, a part of the workforce does not participate in any public retirement plan.

For 1990, the social security (Old Age, Survivors, and Disability Insurance) tax rate is 6.2 percent of covered wages up to $51,300 and is imposed on both the employer and employee (for a total of 12.40 percent).

Reasons for Change

Certain employees of State and local governments have no retirement protection either from social security or a public retirement system. Many of these individuals are low-paid individuals with limited or intermittent work experience and, therefore, social security coverage will provide important disability and retirement protection.

Explanation of Provision

Under the bill, State and local workers who are not covered by a retirement system in conjunction with their employment for the State or local government are required to be covered by social security (Old Age, Survivors, and Disability Insurance (OASDI)) and such workers' wages are subject to the OASDI taxes under the Federal Insurance Contributions Act (FICA).

A retirement system is defined as under the definition of retirement system contained in the Social Security Act (42 U.S.C. sec. 418(b)(4)). Thus, a retirement system is defined as a pension, annuity, retirement, or similar fund or system established by a State or by a political subdivision thereof.

Whether an employee is a member (i.e., is a participant) of a retirement system is based upon whether that individual actually participates in the program. Thus, whether an employee participates is not determined by whether that individual holds a position that is included in a retirement system. Instead, that individual must actually be a member of the system. For example, an employee whose job classification is of a type that ordinarily is entitled to coverage is not a member of a retirement system if he or she is ineligible because of age or service conditions contained in the plan and, therefore, is required to be covered under social security. Similarly, if participation in the system is elective, and the employee elects not to participate, that employee does not participate in a system for purposes of this rule, and is to be covered under the social security system.

The Secretary of the Treasury, in conjunction with the Social Security Administration, is required to issue guidance in order to implement the purposes of this provision.

Effective Date

The provision is effective with respect to services performed after September 30, 1990.

e. Payroll tax deposit stabilization (sec. 13345 of the bill and sec. 6302(g) of the Code)

Present Law

Treasury regulations have established the system under which employers deposit income taxes withheld from employees' wages and FICA taxes. The frequency with which these taxes must be deposited increases as the amount required to be deposited increases.

Employers are required to deposit these taxes as frequently as eight times per month, provided that the amount to be deposited equals or exceeds $3,000. These deposits must be made within three banking days after the end of the eighth-monthly period.

Effective August 1, 1990, employers who are on this eighth-monthly system are required to deposit income taxes withheld from employees' wages and FICA taxes by the close of the applicable banking day (instead of by the close of the third banking day) after any day on which the business cumulates an amount to be deposited equal to or greater than $100,000 (regardless of whether that day is the last day of an eighth-monthly period).

For 1990, the applicable banking day is the first. For 1991, the applicable banking day is the second. For 1992, the applicable banking day is the third. For 1993 and 1994, the applicable banking day is the first. The Treasury Department is given authority to issue regulations for 1995 and succeeding years to provide for similar modifications to the date by which deposits must be made in order to minimize unevenness in the receipts effects of this provision.

Reasons for Change

The committee believed that it was appropriate to simplify this provision by making the deposit rules uniform for all years.

Explanation of Provision

The bill requires that deposits equal to or greater than $100,000 must be made by the close of the next banking day for all years. Thus, no change from present law is necessary for calendar year 1990, but for calendar years 1991 and 1992 deposits are accelerated. The regulatory authority provided to the Treasury Department is repealed.

Effective Date

The provision is effective for amounts required to be deposited after December 31, 1990.

III. MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Vote of the Committee

In compliance with clause 2(l)(2)(B) of Rule XI of the House of Representatives, the following statement is made about the vote of the Committee on Titles XII and XIII. Titles XII and XIII were ordered reported without recommendation by voice vote.

B. Oversight Findings

In compliance with clause 2(a)(3)(A) of Rule XI of the Rules of the House of Representatives, the Committee advises that it was as a result of the Committee's oversight activities with respect to various revenue proposals, and the response to the revenue reconciliation instructions contained in House Concurrent Resolution 310, that the Committee concluded that it is appropriate to enact the provisions contained in Titles XII and XIII.

The Committee on Ways and Means and its Subcommittees have held numerous hearings during the 101st Congress on various revenue-related provisions included in its revenue title (Title XIII) as submitted to the Committee on the Budget in response to the revenue reconciliation instructions.

C. Oversight by the Committee on Government Operations

In compliance with clause 2(l)(3)(D) of Rule XI of the Rules of the House of Representatives, the Committee states that no oversight findings and recommendations have been submitted to this Committee on Government Operations with respect to the provisons contained in Titles XII and XIII.

D. Inflationary Impact

In compliance with clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee states that the enactment of Titles XII and XIII is expected to significantly reduce inflationary pressures in the operation of the national economy.

E. Budget Effects of the Bill

1. COMMITTEE ESTIMATES

In compliance with clause 7(a) of Rule XIII of the House of Representatives, the following statement is made:

The Committee agrees with the estimates prepared by the Congressional Budget Office (CBO) which is included below.

Table 1 below summarizes the budget effect (both outlays and revenues) by major program. These estimates are identical to those made by CBO and the Joint Committee on Taxation. Only provisions which have a direct impact upon budget outlays or revenues are shown in these tables.

The reconciliation target (both outlays and revenues) was $18.5 billion in fiscal year 1991 and $194.4 billion over the 5-year period. The bill as reported by the Committee has achieved total deficit reduction of $23.9 billion in fiscal year 1991 and $198.2 billion over the 5-year period, Thus, the Committee has more than met its obligation under the budget resolution.

Table 2 presents the outlay impact for each Medicare provision in Title XII, and Table 3 presents the revenue impact for each revenue provision in Title XIII.

TABLE 1.—COMMITTEE ON WAYS AND MEANS RECONCILIATION INSTRUCTION AND RECONCILIATION LEGISLATION AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

[By fiscal year, in billions of dollars]

	1991	1992	1993	1994	1995	5-year
Reconciliation Instruction						
Revenues	−13.225	−24.135	−24.040	−28.950	−28.450	−118.800
Outlays	−3.320	−9.245	−11.870	−14.148	−17.020	−55.603
Unspecified Deficit Reduction	−2.000	−3.000	−4.000	−5.000	−6.000	−20.000
Committee Total	−18.545	−36.380	−39.910	−48.098	−51.470	−194.403
Budget Effects of the Reconciliation Legislation As Reported by the Committee on Ways and Means						
Medicare						
Medicare Program	−3.268	−5.712	−7.242	−8.042	−8.823	−33.087
Medicare Beneficiaries	−1.040	−2.450	−3.750	−4.695	−5.285	−17.220
Total Medicare	−4.308	−8.162	−10.992	−12.737	−14.108	−50.307
Social Security (Overpayments)	0.000	−0.043	−0.028	0.000	0.000	−0.071
Customs Service User Fees	0.000	−0.572	−0.562	−0.568	−0.590	−2.292
IRS User Fees	−0.045	−0.045	−0.045	−0.045	−0.045	−0.225
PBGC	−0.120	−0.130	−0.130	−0.130	−0.130	−0.640
Revenues	−19.400	−31.600	−27.900	−32.200	−33.600	−144.700
Committee Total	−23.873	−40.552	−39.657	−45.680	−48.473	−198.235

Note: Minus sign denotes a reduction in the deficit—outlay reduction or revenue increase.

TABLE 2. MEDICARE PROVISIONS

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	5-year
Part A						
1. Hospital Capital —15%, PPS FY91 (10/90).	—810	—120	0	0	0	—930
2. Hospital Update—wage/regional adj.	—495	—2105	—2710	—2820	—3045	—11,175
—2.0% for FY91 (1/91)						
—1.5% net FY92; capital 100%, —3.55% update						
—1.0% in FY93						
3. DRG Payment Window of 72 hours (1/91).	—75	—135	—150	—165	—185	—710
4. Graduate Medical Education (7/91).....	—35	—70	—95	—150	—165	—515
5. PPS-Exempt Hospitals	—60	—75	—10	0	0	—145
6. Cont. FY90 payment policies 11/1–12/31/90.	—425	0	0	0	0	—425
Total—Part A	—1900	—2505	—2965	—3135	—3395	—13,900
Part B						
7. Overpriced Physician Procedures						
50% in FY91.....	—250	—410	—450	—500	—555	—2165
RAPs —6% in FY91.....	—160	—265	—295	—350	—385	—1455
Subtotal—Overpriced Procedures.	—410	—675	—745	—850	—940	—3620
8. Physician Update.....	—235	—500	—610	—675	—755	—2775
0% in 91; primary care/floor 2% in 92						
9. Other Physician Provisions						
New physicians	—50	—95	—110	—125	—135	—515
Assistants at Surgery.....	—30	—50	—55	—60	—65	—260
Interpretation of EKGs 1/92)	0	—135	—225	—250	—275	—885
Subtotal—Other Physicians	—80	—280	—390	—435	—475	—1660
10. Hospital Outpatient Services.....	—278	—436	—521	—415	—360	—2010
Capital at —15% thru 12/93 (10/90)						
Services at —2% thru 12/93 (10/90)						
Surg./Rad. limits to 33/67% (1/91)						
11. Durable Medical Equipment.....	—185	—351	—431	—502	—548	—2017
12. Clinical Laboratory Services.....	—85	—175	—250	—300	—340	—1150
13. Cont. FY90 —1/4% policy 11/1–12/31/90.	—70	0	0	0	0	—70
Total—Part B	—1343	—2417	—2947	—3177	—3418	—13,302
Part A and B						
14. ESRD.....	—25	—40	—40	—40	—40	—185
15. Secondary Payer Extensions.....	0	—750	—1290	—1690	—1970	—5700
Total—Part A and B.....	—25	—790	—1330	—1730	—2010	—5885
Total—Medicare Program	—3268	—5712	—7242	—8042	—8823	—33,087
Medicare Beneficiary Provisions						
16. Part B Premium Increases Set—ad hoc increase.	—690	—1560	—2650	—3565	—4125	—12,590
17. Part B Deductible $100 in CY91. $100 in 92–95.	—350	—890	—1100	—1130	—1160	—4630
Total—Medicare Beneficiaries.....	—1040	—2450	—3750	—4695	—5285	—17,220

Note: (date) denotes effective date of the provision

TABLE 3.—BUDGET RECONCILIATION—REVENUE PROPOSALS AS APPROVED BY THE COMMITTEE ON WAYS AND MEANS ON OCTOBER 10, 1990

[Fiscal Years 1991-1995. in billions of dollars]

Item	Effective	1991	1992	1993	1994	1995	1991-95
A. Deficit Reduction Provisions:							
1. Energy taxes:							
a. Motor fuels tax (5 cents; 9 cents after 7/1/91) [1]	12/1/90	5.3	9.3	9.0	9.1	9.1	41.8
b. 2-cent petroleum tax (exemptions for manufacturing, feedstocks, and home heating oil)	1/1/91	1.6	2.3	2.3	2.4	2.4	11.0
2. Increase tobacco taxes by 4 cents per pack in 1991 and by 4 cents per pack in 1993	1/1/91	0.6	0.8	1.5	1.5	1.5	5.9
3. Beer, wine, and distilled spirits taxes [2]	1/1/91	1.5	2.1	2.1	2.1	2.1	9.9
4. 10% luxury excise tax [3]	1/1/91	0.3	0.5	0.6	0.7	0.7	2.8
5. Expand ozone-depleting chemical excise tax [4]	1/1/91	0.1	0.1	0.1	0.1	0.1	0.5
6. Loss deductions and salvage values for insurance companies (8-year phasein)	1/1/90	0.3	0.2	0.2	0.2	0.2	1.1
7. Adopt foreign compliance provisions including certain provisions from H.R. 4308	3/20/90	([5])	([5])	0.1	0.1	0.1	0.3
8. Amortize insurance policy deferred acquisition expenses (DAC)	9/30/90	1.5	1.7	1.7	1.6	1.5	8.0
9. Leaking underground storage tank (LUST) trust fund (5 years)	D/o/E+30	0.1	0.1	0.1	0.1	0.1	0.6
10. Increase Airport Trust Fund aviation excise taxes (5 years) [6]	12/1/90	1.4	2.3	2.5	2.7	3.0	11.9
11. Increase harbor maintenance tax	1/1/91	0.3	0.3	0.4	0.4	0.4	1.8
12. Retiree health with reversion excise increase and asset cushion requirement [7]		0.5	0.2	0.1	0.1	([5])	0.9
13. State and local HI [8]	1/1/92		0.7	1.4	1.6	1.6	5.2
14. Corporate Federal tax underpayments: Disallow deduction for interest paid to IRS attributable to time after 12/31/90	1/1/91	1.4	0.7	0.6	0.4	09.6	3.9
15. Certain business tax provisions:							
a. Expand and clarify reporting and allocation rules for certain asset acquisitions	10/10/90	([5])	([5])	([5])	([5])	([5])	0.1

TABLE 3.—BUDGET RECONCILIATION—REVENUE PROPOSALS AS APPROVED BY THE COMMITTEE ON WAYS AND MEANS ON OCTOBER 10, 1990—Continued

[Fiscal Years 1991–1995, in billions of dollars]

Item	Effective	1991	1992	1993	1994	1995	1991–95
b. Require accrual of redemption premium for certain preferred stock	10/10/90	([5])	0.1	0.1	0.1	0.1	0.4
c. Expand application of CERT rules to subsidiary acquisitions	10/10/90	([5])	0.1	0.1	0.1	0.1	0.4
d. Require recognition of corporate-level gain in certain divisive corporate transactions (5-year limitation period)	10/10/90	([5])	([5])	([5])	([5])	([5])	0.2
e. Clarify treatment of debt exchanges	10/10/90	0.1	0.1	0.1	([5])	([5])	0.3
16. Limitation on itemized deductions [9]	1/1/91	0.6	3.9	4.0	4.5	5.2	18.2
17. Increase HI wage cap to $73,000	1/1/91	0.9	2.8	2.9	3.1	3.3	13.0
18. State and local social security (OASDI) [10]		2.0	2.2	2.4	2.5	2.7	11.7
19. Increase railroad retirement tier 2 payroll taxes [10]		([5])	([5])	([5])	0.1	0.1	0.2
20. Payroll tax deposit stabilization		1.0	2.2	−3.2			
Subtotals, Deficit Reduction Provisions		19.5	32.7	29.1	33.5	34.9	149.7
B. Progressivity enhancement Provision:							
Increase EITC	1/1/91	−0.1	−1.1	−1.2	−1.3	−1.3	−5.0
Net Deficit Reduction		19.4	31.6	27.9	32.2	33.6	144.7

Notes: Details may not add to totals due to rounding. Interaction between or among items has not been taken into account for the purpose of this table. In "Effective" column: D/o/E + 30 = 30 days after date of enactment.

[1] Railroads subject to the increase in motor fuels tax with all revenue from railroads subject to the tax dedicated to deficit reduction 50% of motor fuels tax increase dedicated to deficit reduction; 50% dedicated to highway trust fund (20% of this portion to be allocated to mass transit account). Each State to receive highway account apportionments and allocations equal to at least 95% of its contribution attributable to increased revenue.

[2] Increase distilled spirits by $1.50 (to $14/proof gallon); double beer to 32 cents/6-pack ($18/barrel); increase table wine to 25 cents/bottle ($1.27/gallon); increase rates on fortified wines to maintain current-law differentials between rates. Increases in beer and wine rates have exemptions for some production by small domestic wineries and breweries.

[3] Tax applies to specific newly-manufactured items with retail prices above the following thresholds: automobiles—$30,000; boats and yachts—$100,000; jewelry—$5,000; furs—$5,000, and planes—$100,000. Automobiles, boats, and planes used to transport people or property for hire are exempt. Tax is 10% of purchase price in excess of thresholds.

[4] The tax with respect to the new chemicals subject to the tax is phased in as follows: 1991—$1.37, 1992—$1.37, 1993—$1.67, 1994—$3.00, 1995 and thereafter—$3.10.

[5] Gain of less than $50 million.

[6] This estimate is presented relative to the Congressional Budget Office (CBO) baseline which assumes extension of the Airport and Airway Trust Fund (AATF) taxes with the aviation tax reduction trigger in effect. The estimate reflects the effects both of removing the trigger and of increasing the rates of certain of the AATF taxes by 25% as proposed in the President's budget.

[7] Permit certain tax-free transfers of excess pension assets to pay retiree health benefits. (Revenue effect in billions: 1991 = $0.5; 1992 = $0.3; 1993 = $0.2; 1994 = $0.2; 1995 = $0.1; 1991–95 Total = $1.3.) Generally effective for reversions after September 30, 1990, increase the reversion excise tax to 20% if the employer does not transfer 30% of the reversion to a qualified replacement plan or provide certain benefit increases to plan participants and retirees of at least 25% of the reversion, the reversion tax is 50%. (Revenue effect in billions: 1991 = Loss of less than $50 million; 1992 = $-0.1; 1993 = $-0.1; 1994 = $-0.1; 1995 = $-0.1; 1991–95 Total = $-0.5.)

[8] HI rate = 0.8% in 1992, 1.35% in 1993, 1.45% in 1994 and thereafter.

[9] Disallow itemized deductions in an amount equal to 3% of AGI in excess of $100,000 for single returns, $100,000 for joint returns, and $100,000 for head of household returns. Proposal does not apply to medical expenses, casualty losses, or investment interest. Disallowance under the proposal cannot exceed 80% of otherwise deductible itemized deductions subject to the proposal.

[10] Estimate provided by CBO.

2. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURE

In compliance with clause 2(1)(3)(B) of Rule XI of the House of Representatives, the Committee states that the letter from the Congressional Budget Office indicates that there are changes in budget authority, new spending authority as described in Section 401(c)(2) of the Congressional Budget Act of 1974, and on tax expenditures as a result of the reconciliation provisions of Titles XII and XIII. These are identified in the CBO letter below.

3. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with Clause 2(1)(3)(C) of Rule XI of the House of Representatives requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by the CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 15, 1990.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
United States House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for the Reconciliation provisions of the Committee on Ways and Means, as ordered transmitted to the House Committee on the Budget, October 15, 1990.

The estimates included in the attached table represent the 1991-1995 effects on the federal budget and on the budget resolution baseline of the Committee's legislative proposals affecting spending. CBO understands that the Committee on the Budget will be responsible for intrerepreting how savings contained in these legislative proposals measure against the budget resolution reconciliation instructions.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

TITLE XII—COMMITTEE ON WAYS AND MEANS: SPENDING PROVISIONS-SUBTITLES A THROUGH E AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991-95
DIRECT SPENDING						
SUBTITLE A—PROVISIONS RELATING TO MEDICARE PART A						
Sec. 12001. Reductions in payments for capital-related costs of inpatient PPS hospital services for fiscal year 1991	−810	−120	0	0	0	−930
Sec. 12002. Prospective payment hospitals	−495	−2,105	−2,710	−2,820	−3,045	−11,175

TITLE XII—COMMITTEE ON WAYS AND MEANS: SPENDING PROVISIONS-SUBTITLES A THROUGH E AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS—Continued

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991–95
Sec. 12003. Expansion of DRG payment window	−75	−135	−150	−165	−185	−710
Sec. 12004. Payments for direct graduate medicial educations costs	−35	−70	−95	−150	−165	−515
Sec. 12005. PPS-Exempt hospitals	−60	−75	−10	0	0	−145
Sec. 12006. Freeze in payments under part A through December 31	−425	0	0	0	0	−425
Subtotal-Subtitle A	−1,900	−2,505	−2,965	−3,135	−3,395	−13,900
SUBTITLE B—PROVISIONS RELATING TO MEDICARE PART B						
Sec. 12101. Reduction in payments for overvalued procedures	−250	−410	−450	−500	−555	−2,165
Sec. 12102. Payment for radiology services	−120	−205	−230	−265	−295	−1,115
Sec. 12103. Anesthesia services	−35	−50	−55	−70	−75	−285
Sec. 12104. Pathlogy services	−5	−10	−10	−15	−15	−55
Sec. 12105. Payments for physicians' services	−235	−500	−610	−675	−755	−2,775
Sec. 12106 Treatment of new physicians	−50	−95	−110	−125	−135	−515
Sec. 12107. Payments for assistants at surgery	−30	−50	−55	−60	−65	−260
Sec. 12108. Interpretation of electrocardiograms	0	−135	−225	−250	−275	−885
Sec. 12111. Payments for hospital outpatient services	−278	−436	−521	−415	−360	−2,010
Sec. 12112. Durable medical equipment	−185	−351	−431	−502	−548	−2,017
Sec. 12113. Payments for clinical diagnostic Laboratory tests	−85	−175	−250	−300	−340	−1,150
Sec. 12114. Reduction in payments under part B during final 2 months of 1990	−70	0	0	0	0	−70
Subtotal—Subtitle B	−1,343	−2,417	−2,947	−3,177	−3,418	−13,302
SUBTITLE C—PROVISIONS RELATING TO MEDICARE PART A AND B						
Sec. 12201. End state renal disease services	−25	−40	−40	−40	−40	−185
Sec. 12202. Extension of secondary payor provisions	0	−750	−1,290	−1,690	−1,970	−5,700
Subtotal—Subtitle C	−25	−790	−1,330	−1,730	−2,010	−5,885
SUBTITLE D—PROVISIONS RELATING TO MEDICARE PART B PREMIUM AND DEDUCTIBLE						
Sec. 12301. Part B premium	−690	−1,560	−2,650	−3,565	−4,125	−12,590
Sec. 12302. Part B deductible	−350	−890	−1,100	−1,130	−1,160	−4,630
Subtotal—Subtitle D	−1,040	−2,450	−3,750	−4,695	−5,285	17,220
SUBTITLE E—USER FEES						
Sec. 12401. 4-year extension of customs user fees	0	−572	−562	−568	−590	−2,292
Sec. 12402. 5-year extension of internal revenue user fees *	−45	−45	−45	−45	−45	−225
Sec. 12403. Increase in PBGC premium rates	−120	−130	−130	−130	−130	−640

TITLE XII—COMMITTEE ON WAYS AND MEANS: SPENDING PROVISIONS-SUBTITLES A THROUGH E AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS—Continued

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991-95
Sec. 12404. Recovery of OASDI overpayments by means of reduction in tax refunds	0	−43	−28	0	0	−71
Subtotal—Subtitle E	165	−790.	−765	−743	−765	−3,228
Total—Title XII	−4,473	−8,952	−11,757	−13,480	−14,873	−53,535
State and local effects	−25	−45	−120	−200	−290	−680

* Revenue increase. Negative sign represents the deficit effect.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 15, 1990.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
United States House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office concurs with the Joint Committee on Taxation estimates of the revenue effects of the tax provisions included among the Reconciliation provisions of the Committee on Ways and Means.

Sincerely,

ROBERT D. REISCHAUER

ADDITIONAL VIEWS OF RICHARD GEPHARDT AND LEON E. PANETTA

We have discussed with the Congressional Black Caucus the need for greater investment in the areas of education, health, science and housing. We agree that every effort must be made to advance legislatively in budget resolutions, authorizing bills and appropriation bills funding levels which will achieve the goals set forth for the following functions:

INTERNATIONAL AFFAIRS (150)

Increases over current services provided for under this function should reach, at least, $1.8 billion in Budget Authority and $1.7 billion in Outlays by FY 1993 and, to the degree possible, be targeted for Southern African Development Assistance, Ethiopia/Sudan Famine Relief, the PL480 program and Refugee Assistance programs.

GENERAL SCIENCE, SPACE AND TECHNOLOGY (250)

Increases over current services provided for under this function should reach, at least, $500 million in Budget Authority and $400 million in Outlays by FY 1993 and, to the degree possible, be targeted for Science and Technology programs for Historically Black Colleges and Universities.

ENERGY (270)

Increases over current services provided for under this function should reach, at least, $500 million in Budget Authority and $400 million in Outlays by FY 1993 and, to the degree possible, be targeted for Hispanic and Historically Black Colleges and University consortia agreements with the Department of Energy.

COMMERCE AND HOUSING CREDIT (370)

Increases over current services provided for under this function should reach, at least, $2 billion in Budget Authority and $2 billion in Outlays by FY 1993 and, to the degree possible, be targeted for the programs of the Gonzalez, Dellums and Conyers housing bills (H.Rs. 5157, 1122 and 969)

COMMUNITY AND REGIONAL DEVELOPMENT (450)

Increases over current services provided for under this function should reach, at least, $2.6 billion in Budget Authority and $300 million in Outlays by FY 1993 and, to the degree possible, be targeted for the programs of the Urban Homesteading Act (H.R. 1181)

EDUCATION AND TRAINING (500)

Increases over current services provided for under this function should reach, at least, $2.4 billion in Budget Authority and $2.0 billion in Outlays by FY 1993 and, to the degree possible, be targeted to fund the Carl D. Perkins Vocational Education Act, the School Lunch and Child Nutrition Act, Head Start and Handicapped Education, to create Educational R&D Districts for educational research and development, Youth Incentive, Employment, Drop-Out Prevention and Anti-Gang Violence programs, and to create a new government guaranteed bond program to raise capital improvement funds for private Historically Black Colleges and Universities

INCOME SECURITY (600)

Increases over current services provided for under this function should reach, at least, $1.5 billion in Budget Authority and $1.5 billion in Outlays by FY 1993 and, to the degree possible, be targeted to fund WIC, School Breakfast and Child Care Food programs, AFDC Assistance and Community Food Nutrition, AFDC Work Activities, Job Opportunities and Basic Skills (JOBS) Training and Snack to Child Care and Temporary Emergency Food Assistance programs

VETERANS BENEFITS AND SERVICES (700)

Increases over current services provided for under this function should reach, at least, $500 million in Budget Authority and $500 million in Outlays by FY 1993 and, to the degree possible, be targeted for expanding Education, Training and Rehabilitation and for increases in Veterans Housing, Hospital and Medical benefits

We look forward to working with the Congressional Black Caucus on this important matter.

O

Union Calendar No. 546

101ST CONGRESS
2D SESSION

H. R. 5835

[Report No. 101–881]

To provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16 (legislative day, OCTOBER 15), 1990

Mr. PANETTA, from the Committee on the Budget, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

A BILL

To provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1990".

SEC. 2. TABLE OF TITLES.

Title III. House Committee on Education and Labor.
Title IV. House Committee on Energy and Commerce.
Title V. House Committee on Interior and Insular Affairs.
Title VI. House Committee on the Judiciary.
Title VII. House Committee on Merchant Marine and Fisheries.
Title VIII. House Committee on Post Office and Civil Service.
Title IX. House Committee on Public Works and Transportation.
Title X. House Committee on Science, Space and Technology.
Title XI. House Committee on Veterans Affairs.
Title XII. House Committee on Ways and Means: Spending.
Title XIII. House Committee on Ways and Means: Revenues.

TITLE IV—COMMITTEE ON ENERGY AND COMMERCE

TABLE OF CONTENTS

Subtitle A—Provisions Relating to Medicare Program and Regulation of Medicare Supplemental Insurance Policies

PART 2—PROVISIONS RELATING TO PARTS A AND B

Subpart B—Other Provisions

SEC. 4121. EXTENSION OF SECONDARY PAYOR PROVISIONS.

(a) EXTENSION OF RENAL DISEASE PERIOD FROM 12 TO 18 MONTHS.—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended by striking "12-month period" each place it appears and inserting "18-month period".

(b) ELIMINATION OF SUNSET FOR TRANSFER OF DATA PROVISION.—Section 1862(b)(5)(C) of such Act (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(c) ELIMINATION OF SUNSET ON APPLICATION TO DISABLED BENEFICIARIES.—

(1) IN GENERAL.—Section 1862(b)(1)(B) of such Act (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "(iv)(II)" and "(iv)(I)" and inserting "(iii)(II)" and "(iii)(I)", respectively,

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1), (2), and (3)(B) of section 1837(i) of such Act (42 U.S.C. 1395p(i)) and section 1839(b) of such Act (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" and inserting "1862(b)(1)(B)(iii)".

(d) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to group health plans for plan years beginning on or after January 1, 1991.

(2) The amendments made by subsections (b) and (c) shall take effect on the date of the enactment.

PART 3—PROVISIONS RELATING TO BENEFICIARIES

SEC. 4201. PART B PREMIUM.

(a) $1 INCREASE IN PREMIUM FOR 1991.—Notwithstanding any other provision of law, but subject to subsections (b) and (f) of section 1839 of the Social Security Act, the amount of the monthly premium under such section, applicable for individuals enrolled under part B of title XVIII of such title for 1991, shall be increased by $1 above the amount of such premium otherwise determined under section 1839(a)(3) of such Act.

(b) PREMIUM FOR YEARS 1992 THROUGH 1995.—Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1), by inserting "and for each month after December 1991 and prior to January 1996" after "January 1991", and

(2) in paragraph (2), by striking "1991" and inserting "1996".

Subtitle B—Medicaid Program

PART 1—REDUCTIONS IN SPENDING

SEC. 4403. COMPUTER MATCHING AND PRIVACY REVISIONS.

(a) VERIFICATION REQUIREMENTS.—Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose

records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

"(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.".

(b) ISSUANCE OF GUIDANCE BY DIRECTOR OF OMB.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this section.

(c) LIMITATION ON APPLICATION OF VERIFICATION REQUIREMENT.—Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by subsection (a), shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b–7), until the earlier of—

(1) the date on which the Data Integrity Board of the Federal agency which administers that program determines that there is not a high degree of confidence that information provided by that agency under Federal matching programs is accurate; or

(2) 30 days after the date of publication of guidance under subsection (b).

PART 2—PROTECTION OF LOW-INCOME MEDICARE BENEFICIARIES

SEC. 4411. EXTENDING MEDICAID PAYMENT FOR MEDICARE PREMIUMS FOR CERTAIN INDIVIDUALS WITH INCOME BELOW 125 PERCENT OF THE OFFICIAL POVERTY LINE.

(a) ENTITLEMENT.—Section 1902(a)(10)(E)(ii) of the Social Security Act (42 U.S.C. 1395b(a)(10)(E)(ii)) is amended by inserting "(I)" before "for qualified" and by inserting before the comma the following: "and (II) subject to section 1905(p)(4), for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) but is less than 125 percent of the official poverty line (referred to in such section) for a family of the size involved".

(b) FEDERAL PAYMENT OF FULL COSTS OF ADDITIONAL MEDICAL ASSISTANCE.—The last sentence of section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by inserting before the period at the end the following: "and with respect to amounts expended for medicare cost-sharing described in subsection (p)(3)(A)(i) for individuals described in section 1902(a)(10)(E)(ii)(II)".

(c) APPLICATION IN CERTAIN STATES AND TERRITORIES.—Section 1905(p)(4) of such Act (42 U.S.C. 1396d(p)(4)) is amended—

(1) in subparagraph (B), by inserting "or 1902(a)(10)(E)(ii)(II)" after "subparagraph (B)", and

(2) by adding at the end the following:

"In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirement of section 1902(a)(10)(E) in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title."

(d) CONFORMING AMENDMENT.—Section 1843(h) of such Act (42 U.S.C. 1395v(h)) is amended by adding at the end the following new paragraph:

"(3) In this subsection, the term 'qualified medicare beneficiary' also includes an individual described in section 1902(a)(10)(E)(ii)(II).".

(e) DELAY IN COUNTING SOCIAL SECURITY COLA INCREASES UNTIL NEW POVERTY GUIDELINES PUBLISHED.—

(1) IN GENERAL.—Section 1905(p) of such Act is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(D)" after "supplementary social security income program", and

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

"(D)(i) In determing under this subsection the income of an individual who is entitled to monthly insurance benefits under title II for a transition month (as defined in clause (ii)) in a year, such income shall not include any amounts attributable to an increase in the level of monthly insurance benefits payable under such title which have occurred pursuant to section 215(i) for benefits payable for months beginning with December of the previous year.

"(ii) For purposes of clause (i), the term 'transition month' means each month in a year through the month following the month in which the annual revision of the official poverty line, referred to in subparagraph (A), is published.".

(2) CONFORMING AMENDMENTS.—Section 1902(m) of such Act (42 U.S.C. 1396a(m)) is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(C)" after "supplemental security income program", and

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

"(C) The provisions of section 1905(p)(2)(D) shall apply to determinations of income under this subsection in the same

manner as they apply to determinations of income under section 1905(p).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after January 1, 1991, without regard to whether or not regulations to implement such amendments are promulgated by such date; except that the amendments made by subsection (d) shall apply to determinations of income for months beginning with January 1991.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

TABLE OF CONTENTS

Subtitle F—Miscellaneous

SEC. 11051. USE OF TAX RETURN INFORMATION TO VERIFY INCOME FOR PURPOSES OF NEEDS-BASED BENEFITS AND SERVICES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) DISCLOSURE OF TAX INFORMATION TO DVA.—(1) Subparagraph (D) of section 6103(1)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) by striking out "and" at the end of clause (vi),

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and", and

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

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Secretary of Veterans Affairs;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total (except that, in such cases, only wage and self-employment information may be disclosed).".

(2) The heading of paragraph (7) of section 6103(1) of such Code is amended by striking out "OR THE FOOD STAMP ACT OF 1977" and inserting in lieu thereof ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) USE OF INCOME INFORMATION FOR NEEDS-BASED PROGRAMS.—(1) Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986.

"(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Secretary.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the

same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

"(f)(1) If funds appropriated to the Department of Veterans Affairs for general operating expenses for any fiscal year do not include sufficient amounts provided for the purpose of carrying out this section during that fiscal year, the Secretary shall pay the expenses of carrying out this section during that fiscal year (to the extent that such general operating expenses appropriations are insufficient for that purpose) from amounts available to the Department for the payment of compensation and pension.

"(2) For any fiscal year for which the authority provided by paragraph (1) is used, if a supplemental appropriation law is enacted to provide additional funds to the Department of Veterans Affairs for general operating expenses for that fiscal year which are to be available for the purpose of carrying out this section, such supplemental appropriations for such purpose shall (to the extent available) be used to reimburse appropriations provided for payment of compensation and pension for any expenses previously charged against such appropriations for the administration of this section.

"(g) The authority of the Secretary to obtain information from the Secretary of the Treasury or the Secretary of Health and Human Services under section 6103(1)(7)(D)(viii)

of the Internal Revenue Code of 1986 expires on September 30, 1992.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO CURRENT BENEFICIARIES.—(1) The Secretary of Veterans Affairs shall notify individuals who (as of the enactment of this Act) are applicants for or recipients of the benefits described in subsection (b) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)).

(2) Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(3) The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until such notification under paragraph (1) is made.

SEC. 11053. MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS BY BENEFITS CLAIMANTS AND USES OF DEATH INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS.—Section 3001 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Any person who applies for or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of any such benefits. A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.

"(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number.".

(b) REVIEW OF DEPARTMENT OF HEALTH AND HUMAN SERVICES DEATH INFORMATION TO IDENTIFY DECEASED RECIPIENTS OF COMPENSATION AND PENSION BENEFITS.—(1) Chapter 53 of title 38, United States Code, as amended by section 11051, is further amended by adding at the end the following new section:

"§ 3118. Review of Department of Health and Human Services death information

"(a) The Secretary shall periodically compare Department of Veterans Affairs information regarding persons to or for whom compensation or pension is being paid with Department of Health and Human Services death information for the purposes of—

"(1) determining whether any such persons are deceased;

"(2) ensuring that such payments to or for any such persons who are deceased are terminated in a timely manner; and

"(3) ensuring that collection of overpayments of such benefits resulting from payments after the death of such persons is initiated in a timely manner.

"(b) The Department of Health and Human Services death information referred to in subsection (a) of this section is death information available to the Secretary from or through the Secretary of Health and Human Services, including death information available to the Secretary of Health and Human Services from a State, pursuant to a memorandum of understanding entered into by such Secretaries.".

(2) The table of sections at the beginning of such chapter is further amended by adding at the end the following:

"3118. Review of Department of Health and Human Services death information.".

TITLE XII—COMMITTEE ON WAYS AND MEANS: SPENDING

TABLE OF CONTENTS OF TITLE

Subtitle C—Provisions Relating to Medicare Parts A and B

SEC. 12202. EXTENSION OF SECONDARY PAYOR PROVISIONS.

(a) IDENTIFICATION OF MEDICARE SECONDARY PAYOR SITUATIONS.—

(1) Section 1862(b)(5)(C)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by strik-

ing "September 30, 1991" and inserting "September 30, 1995".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking "September 30, 1991" and inserting "September 30, 1995";

(B) in clause (ii)(I), by striking "1990" and inserting "1994"; and

(C) in clause (ii)(II), by striking "1991" and inserting "1995".

(b) MEDICARE SECONDARY PAYOR FOR THE DISABLED.—Section 1862(b)(1)(B)(iii) of such Act (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "January 1, 1992" and inserting "October 1, 1995".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment and the amendment made by subsection (a)(2)(B) shall apply to requests made on or after such date.

Subtitle D—Provisions Relating to Medicare Part B Premium and Deductible

SEC. 12301. PART B PREMIUM.

Section 1839(e)(1) of the Social Security Act (42 U.S.C. 1395r(e)(1)) is amended—

(1) by inserting "(A)" after "(e)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) Notwithstanding the provisions of subsection (a), the monthly premium for each individual enrolled under this part for each month in—

"(i) 1991 shall be $32.40,

"(ii) 1992 shall be $36.00,

"(iii) 1993 shall be $40.50,

"(iv) 1994 shall be $44.00, and

"(v) 1995 shall be $46.50.".

Subtitle E—User Fees

SEC. 12404. RECOVERY OF OASDI OVERPAYMENTS BY MEANS OF REDUCTION IN TAX REFUNDS.

(a) ADDITIONAL METHOD OF RECOVERY.—Section 204(a)(1)(A) of the Social Security Act (42 U.S.C. 404(a)(1)(A)) is amended by inserting after "payments to such overpaid person," the following: "or shall obtain recovery by means of reduction in tax refunds based on notice to the Secretary of the Treasury as permitted under section 3720A of title 31, United States Code,".

(b) RECOVERY BY MEANS OF REDUCTION IN TAX REFUNDS.—Section 3720A of title 31, United States Code (relating to collection of debts owed to Federal agencies) is amended—

(1) in subsection (a), by striking "OASDI overpayment and";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting the following new subsection after subsection (e):

"(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

"(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Secretary of Health and Human Services is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

"(B) In any case in which an individual files for a waiver under section 204(b) within the 60-day period referred to in subsection (b)(2), the Secretary of Health and Human Services shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under section 204(b).

"(3) In lieu of payment, pursuant to subsection (c), to the Secretary of Health and Human Services of the amount of any reduction under this subsection based on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Federal Old-Age and Survivors Insur-

ance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Secretary of Health and Human Services.".

(c) INTERNAL REVENUE CODE PROVISIONS.—

(1) IN GENERAL.—Subsection (d) of section 6402 of the Internal Revenue Code of 1986 (relating to collection of debts owed to Federal agencies) is amended—

(A) in paragraph (1), by striking "any OASDI overpayment and"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) TREATMENT OF OASDI OVERPAYMENTS.—

"(A) REQUIREMENTS.—Paragraph (1) shall apply with respect to an OASDI overpayment only if the requirements of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

"(B) NOTICE; PROTECTION OF OTHER PERSONS FILING JOINT RETURN.—

"(i) NOTICE.—In the case of a debt consisting of an OASDI overpayment, if the Secretary determines upon receipt of the notice referred to in paragraph (1) that the

refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

"(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

"(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

"(ii) ADJUSTMENTS BASED ON PROTECTIONS GIVEN TO OTHER TAXPAYERS ON JOINT RETURN.—If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reductions in refunds under this sub-

section and are payable to a trust fund referred to in subparagraph (C).

"(C) DEPOSIT OF AMOUNT OF REDUCTION INTO APPROPRIATE TRUST FUND.—In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Secretary of Health and Human Services, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Secretary of Health and Human Services.

"(D) OASDI OVERPAYMENT.—For purposes of this paragraph, the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.".

(2) PRESERVATION OF REMEDIES.—Subsection (e) of section 6402 of such Code (relating to review of reductions) is amended in the last sentence by inserting before the period the following: "or any such action against the Secretary of Health and Human Services which is otherwise available with respect to recoveries

of overpayments of benefits under section 204 of the Social Security Act".

(d) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect January 1, 1991, and

(2) shall not apply to refunds to which the amendments made by section 2653 of the Deficit Reduction Act of 1984 (98 Stat. 1153) do not apply.

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

SEC. 13001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Subtitle C—Other Revenue Increases

PART V—EMPLOYMENT TAX PROVISIONS

SEC. 13341. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) is amended—

(A) by striking "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears and inserting "applicable contribution base (as determined under subsection (x))", and

(B) by striking "such contribution and benefit base" and inserting "such applicable contribution base".

(2) APPLICABLE CONTRIBUTION BASE.—Section 3121 is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the taxes imposed by sections 3101(a) and 3111(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by section 3101(b) and 3111(b), the applicable contribution base is—

"(A) $73,000 for calendar year 1991, and

"(B) for any calendar year after 1991, $73,000 adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230 of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit

base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base'

means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

(2) Sections 3122 and 3125 are each amended by striking "contribution and benefit base limitation" each place it appears and inserting "applicable contribution base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1991 and later calendar years.

SEC. 13342. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1991.

(b) TRANSITION IN TAX RATES.—In applying sections 3101(b) and 3111(b) of the Internal Revenue Code to service which, but for the amendment made by subsection (a), would not constitute employment for purposes of such sections and which is performed—

(1) after December 31, 1991, and before January 1, 1993, the percentage of wages rate of tax under such sections shall be 0.8 percent (instead of 1.45 percent), and

(2) after December 31, 1992, and before January 1, 1994, the percentage of wages rate of tax under such sections shall be 1.35 percent (instead of 1.45 percent).

(c) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs service both during and before January 1992 which constitutes medicare quali-

fied State or local government employment (as defined in paragraph (3)) only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment performed before January 1, 1992, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1992.

(2) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this subsection, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits

under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating clauses (1) through (3) as clauses (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

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

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits

(based on such employment) under part A of title XVIII, (B) the requirements for and conditions of such eligibility, and (C) the necessity of timely application as a condition of entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such the annuity or retirement benefit is based on a disability.".

SEC. 13343. MANDATORY COVERAGE OF CERTAIN STATE AND LOCAL GOVERNMENT EMPLOYEES WHO ARE NOT MEMBERS OF A STATE OR LOCAL RETIREMENT SYSTEM.

(a) EMPLOYMENT UNDER OASDI.—

(1) IN GENERAL.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

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

(B) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(C) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the

foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;".

(2) CONFORMING AMENDMENT.—Paragraph (10) of section 210(a) of such Act (42 U.S.C. 410(a)(10)) is

amended, in the matter following subparagraph (B), by inserting after "university" the following: "and such service is not service described in paragraph (7)(F)".

(b) EMPLOYMENT UNDER FICA.—

(1) IN GENERAL.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

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

(B) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(C) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4) of the Social Security Act) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;".

(2) CONFORMING AMENDMENT.—Paragraph (10) of section 3121(b) of such Code is amended, in the matter following subparagraph (B), by inserting after "university" the following: "and such service is not service described in paragraph (7)(F)".

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

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

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after September 30, 1990.

SEC. 13345. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of

such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit.".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

Union Calendar No. 546

101ST CONGRESS
2D SESSION

H. R. 5835

[Report No. 101-881]

A BILL

To provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991.

OCTOBER 16 (legislative day, OCTOBER 15), 1990

Committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Union Calendar No. 480

101ST CONGRESS
2D SESSION

H. R. 5450

[Report No. 101-768]

To amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals' eligibility for Federal benefits.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1990

Mr. WISE (for himself, Mr. KLECZKA, Mr. BUSTAMANTE, Mr. MCCANDLESS, Mr. CLINGER, and Mr. DYSON) introduced the following bill; which was referred to the Committee on Government Operations

SEPTEMBER 27, 1990

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals' eligibility for Federal benefits.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Amendments of 1990".

SEC. 2. VERIFICATION REQUIREMENTS AMENDMENT.

(a) IN GENERAL.—Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

"(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(III) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation *for the individual to respond to that notice; or*

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.".

(b) ISSUANCE OF GUIDANCE BY DIRECTOR OF OMB.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this Act.

SEC. 3. LIMITATION ON APPLICATION OF VERIFICATION REQUIREMENT.

Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by section 2, shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b–7), until the earlier of—

(1) the date on which the Data Integrity Board of the Federal agency which administers that progam determines that there is not a high degree of confidence that information provided by that agency under Federal matching programs is accurate; or

(2) 30 days after the date of publication of guidance under section 2(b).

Union Calendar No. 480

101ST CONGRESS
2D SESSION

H. R. 5450

[Report No. 101-768]

A BILL

To amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals' eligibility for Federal benefits.

SEPTEMBER 27, 1990

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

101st Congress
HOUSE OF REPRESENTATIVES
Report
2d Session
101-768

COMPUTER MATCHING AND PRIVACY PROTECTION AMENDMENTS OF 1990

September 27, 1990.--Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. Conyers, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H.R. 5450]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Operations, to whom was referred the bill (H.R. 5450) to amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals eligibility for Federal benefits, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment (stated in terms of the page and line numbers of the introduced bill) is as follows:

Page 3, beginning at line 4, strike "for contesting the agency's determination; or" and insert "for the individual to respond to that notice; or".

Explanation of Amendment

Current law requires agencies to suspend any adverse action until the affected individual has been notified and has had an opportunity to respond. The amendment clarifies that the period of suspension ends with the period of time allowed in the notice and not with any additional time period for contesting an adverse determination. The amendment does not affect any existing rights under other laws or regulations.

Summary and Purpose

H.R. 5450 revises subsection (p) of the Privacy Act of 1974 as added by the Computer Matching and Privacy Protection Act of 1988. The effect is to make two basic modifications to the due process requirements for computer matching programs. The bill modifies the requirement that all matching information be independently verified for circumstances in which independent verification is unnecessary. Also, for benefit programs that have statutory or regulatory due process requirements, the bill allows those requirements to substitute for the 30 day notice period otherwise provided for in the Act.

Committee Action and Vote

H.R. 5450 was introduced by Representative Bob Wise on August 2, 1990. The Committee on Government Operations ordered the bill reported on September 26, 1990, by unanimous voice vote.

Hearings

A hearing was held on September 11, 1990. Witnesses were William Thurman, Pennsylvania Department of Public Welfare, representing the American Public Welfare Association; Commissioner Ron Lindsey, Texas Department of Human Services, representing the American Public Welfare Association; and David A. Super, Food Stamp Policy Coordinator, Food Research and Action Center.

Discussion

BRIEF SUMMARY OF THE COMPUTER MATCHING ACT

The Computer Matching and Privacy Protection Act of 1988 regulates the use of computer matching conducted by federal agencies or using federal records subject to the Privacy Act of 1974. Computer matching is the computerized

comparison of records for (i) establishing or verifying eligibility for a federal benefit program, or (ii) recouping payments or delinquent debts under such programs. Computer matching also includes computerized comparisons of federal personnel or payroll systems. Matches for statistical, research, law enforcement, tax, and certain other purposes are not subject to the Act.

Computer matching involving federal data can be conducted only pursuant to matching agreements between the agency providing the data to be matched (the source agency) and the agency receiving the date (the recipient agency). Matching agreements must specify the purpose of the legal authority for the matching program, describe the nature of the match and the expected results, include procedures used by the recipient agency for notifying individuals affected by the match and for verifying the information received, and describe how the records will be protected.

Information obtained through computer matching programs must be independently verified by the recipient agency before any adverse action can be taken. Individuals affected by the matching program must be given notice and an opportunity to contest any findings resulting from a computer match prior to the initiation of any adverse action based on the findings. The law currently requires a 30 day notice period.

The Act requires each federal agency involved in a matching program to establish a Data Integrity Board composed of senior agency officials. The Board reviews and approves matching agreements, programs, and activities; evaluates compliance of matching programs with applicable requirements; reviews the continued justification for matching; provides guidance; and files an annual report with OMB.

HISTORY OF THE COMPUTER MATCHING ACT

The Computer Matching and Privacy Protection Act of 1988 was enacted in the 100th Congress. 1 The Act was passed because of concerns about due process, administrative controls over matching, and cost-effectiveness of computer matching. These concerns were discussed at length in the report that accompanied the original House bill. 2

NOTE 1 Public Law 100-503, 102 Stat. 2507 (Oct. 18, 1988). Hearings that lead to the law include "Computer Matching and Privacy Protection Act of 1987", Hearing before a Subcommittee of the House Committee on Government Operations, 100th Cong., 1st Sess. (1987); "Computer Matching and Privacy

Protection Act of 1986," Hearing before the Subcommittee on Oversight of Government Management, Senate Committee on Governmental Affairs, 99th Cong., 2d sess. (1986).

NOTE 2 H. Rept. Non 100-802, 100th Congress, 2d sess. (1988) (report to accompany H.R. 4699). This report is incorporated by reference in its entirety.

The Act was originally scheduled to be effective on July 19, 1989, nine months after the date of enactment. During the implementation period, it became clear that more time would be needed for agencies to implement with the new requirements.

In response to a request from OMB,3 the effective date of the Act was changed. H.R. 2848 was introduced by Rep. Bob Wise on July 10, 1989. The bill passed the House 4 on July 11, 1989, and the Senate 5 on July 13, 1989. The bill was signed by the President on July 19, 1989. 6 This law changed the effective date of the Computer Matching and Privacy Protection Act to January 1, 1990. 7 The expedited action on H.R. 2848 was possible because the legislation was not controversial. There was no opposition to the change in the effective date. 8

NOTE 3 See letter from Richard G. Darman, Director, Office of Management and Budget, to the Speaker of the House (June 28, 1989).

NOTE 4 135 Congressional Record H3562 (July 11, 1989) (daily edition).

NOTE 5 135 Congressional Record S7953 (July 13, 1989) (daily ed.).

NOTE 6 Public Law 101-56.

NOTE 7 The new effective date in Public Law 101-56 applied only to matching programs that were actually in operation before June 1, 1989 as identified by a report submitted to the House Committee on Government Operations, Senate Committee on Governmental Affairs, and Office of Management and Budget. See 54 Federal Register 38364 (Sept. 15, 1989) (OMB publication of agency matching programs to which the extension permitted by Public Law 101-56 applies). Matching programs that were not in operation by June 1, 1989, were required to comply with the Computer Matching and Privacy Protection Act on the original effective date.

NOTE 8 The American Public Welfare Association and several states requested an exension of the Act's effective date.

INDEPENDENT VERIFICATION

Before a recipient agency, non-federal agency, or source agency can suspend, terminate, reduce, or make a final denial of any financial assistance under a federal benefit program or take other adverse action against an individual as a result of information produced by a matching program, an officer or employee of the agency must independently verify the information.

Independent verification requires verification in accordance with the requirements governing the federal benefit program and any additional requirements governing verification under a federal benefit program. Independent verification requires independent investigation and confirmation of (A) the amount of the asset or income involved; (B) whether the individual actually has or had access to the asset or income for the individual's own use; (C) the period or periods when the individual actually had the asset or income; and (D) any other information received through a matching program that is used as a basis for an adverse action against an individual.

The purpose of the independent verification requirement is to assure that the rights of individuals are not affected automatically by computers without human involvement and without taking reasonable steps to determine that the information relied upon is accurate, complete, and timely. No one should be denied any right, benefit, or privilege simply because his or her name was identified in a match as a "raw hit". There can be no general presumption that information obtained from a computer is necessarily correct.

After passage of the Computer Matching Act, several states and the American Public Welfare Association reported to the Committee a problem created by the independent verification provisions for the Food Stamp, Medicaid, and Aid to Families with Dependent Children programs. Each of these federally sponsored, state-operated programs relies on the routine disclosure by the federal government to the states of information that falls within the scope of the Computer Matching Act's requirements.

Federal benefit information is reported to state agencies and used in determining eligibility and calculating benefit levels. The states contend that existing Income and Eligibility Verification System (IEVS) regulations

for computer matching have an independent verification requirement, but that the requirement does not cover source data like social security and SSI benefit data. 9 As a result, the states contend that the additional independent verification requirement is inconsistent with current rules and an unnecessary and expensive requirement.

NOTE 9 Testimony of William Thurman, Pennsylvania Department of Public Welfare.

The solution proposed by H.R. 5450 is to create an alternative to the case-by-case independent verification otherwise required by the Act. In effect, the alternative procedure permits a Data Integrity Board to waive the idependent verification requirement imposed by the Computer Matching and Privacy Protection Act of 1988 for qualfiying disclosures.

The alternative procedure is only available with respect to information that consists of identification and amount of benefits paid by the source agency under a federal benefit program and only if there is a high degree of confidence that the information provided to the recipient is accurate. Identification information includes the name, address, identifying number, and other information that enables the recipient agency to determine that a specific individual reported by a source agency as receiving benefits under the federal program is the same individual that is receiving benefits from a recipient agency. What constitutes identification information may vary from program to program. If information indentifying program participants alone is adequate for the purpose of the matching program, there is no requirement that benefit information also be disclosed.

Amount of benefits information means any statement about the sum of money or other benefits paid by the source agency under a federal benefit program. Use of the alternative procedure is limited to information about benefits paid by the source agency. It does not include information about benefits paid by an agency other than the source agency or other information reported to a source agency by another agency or other third party. Underlying information used by the source agency to calculate the level of benefits (e.g., income, number of dependents, etc.) does not qualify for the alternative verification procedure.

The role of the Data Integrity Board in the alternate verification process is to determine that information is limited to identification and amount of benefits paid by the source agency under a federal benefit program and that

there is a high degree of confidence that the information provided to the recipient agency is accurate.

These determinations must be made by the Data Integrity Board of the recipient agency. If the recipient agency is a non-federal agency, which does not have a Data Integrity Board, then the deteminations must be made by the Board of the source agency. The Director of the Office of Management and Budget is required to issue guidance on this matter, and Data Integrity Boards are to make their determinations in accordance with that guidance.

The requirement that a Data Integrity Board determine that there is a high degree of confidence that the information provided to the recipient agency is accurate is not intended to require that the Board conduct an audit of the information and the delivery system. Rather, a Board should consider the way in which the information will be disclosed. The Boards should also collect and review all available evidence on the accuracy of the source agency's information and on the reliability of the disclosure procedure.

The Board must be convinced beyond a reasonable doubt that the information received by a recipient agency is accurate. If there is any evidence about the accuracy of the recipient agency's information, the Board must take that evidence into consideration. If an agency audit, Inspector General review, or recipient agency complaint raises questions about the accuracy of the information, then the Board should suspend any previous determination until it has conducted a review. A single error may not be enough to overturn a determination, but a patter of errors will call into question the accuracy of the disclosure system.

The Committee anticipates that the alternative verification procedure will be used when a source agency copies benefit information from the same data file actually used to make benefit payments. If the data is copied and disclosed without modification and is otherwise determined to be accurate, and if the delivery mechanism appears to be reliable, then a Board may conclude that there is a high degree of confidence that the information is accurate.

Any decision by a Data Integrity Board to permit use of the alternative verification procedure does not affect a recipient agency duty to comply with any other verification requirements applicable to its use of the information

under any other statute or regulation. The Board can only affect the responsibilities that apply under the Computer Matching and Privacy Protection Act.

NOTICE REQUIREMENTS

The Computer Matching and Privacy Protection Act requires that due processes be afforded to individuals before any action can be taken on the results of computer matching. No recipient agency, non-federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under the federal benefit program to any individual as a result of information produced by a computer match until 30 days after the individual receives a notice from the agency. The notice must contain a statement of the findings and must inform the individual of the opportunity to contest the findings. The opportunity to contest may be satisfied by notice, hearing, and appeal rights governing the federal benefit program.

When the legislation was originally considered in the 100th Congress, the due process provisions were not controversial. 10 No one suggested that the due process requirements would be expensive to implement. The original House bill included a 60 day notice and wait period.

NOTE 10 The House Committee report accompanying H.R. 4699 included the following: "There is broad support for statutory due process standards. In testimony about S. 496, Deputy OMB Director Joseph Wright said: 'The provisons of this bill, especially those that provide due process steps to ensure citizen rights, are the keys to creating the kind of balance that is necessary to keep important government programs working efficiently and to reassure a sometimes skeptical public that the government is sensitive to their concerns about automation.' The American Bar Association and the American Civil Liberties Union also support statutory due process procedures for computer matching." House Report 100-802 at 7 (footnotes omitted).

For example, the cost estimate from the Congressional Budget Office included the following paragraph on state and local government costs:

> Estimated cost to State and local governments. CBO expects that enacting H.R. 4699 would require state and local agencies involved in computer matching with federal agencies to adopt some new procedures to comply with the verification and notification requirements of the

bill, and to expand matching agreements with federal agencies. Based on information provided by the American Public Welfare Association and the National Association of State Information systems, CBO estimates that the costs associated with these activities would not be significant. 11

NOTE 11 House Report 100-802 at 46.

Based on the information provided by CBO, the Committee reached the following conclusion in its 1988 legislative report:

> These due process procedures are similar in purpose and design to existing requirement for computer matching that is authorized under the Deficit Reduction Act of 1984. As a result, the procedures should not be difficult or expensive for any agency to follow. Most, if not all, affected agencies will already have in place similar procedures. For these agencies, the additional costs of complying with the due process requirements of H.R. 4699 will be minimal. 12

NOTE 12 House Report 100-802 at 35.

The final legislation substituted a 30 day notice and wait period for the 60 days originally proposed by the House. As a result, the judgment that costs would be minimal was strongly reinforced by this compromise.

It now appears that there may have been a considerable underestimation of the effect of the 30 day notice and wait period for the Food Stamp, Medicaid, and Aid to Families with Dependent Children programs. As the January 1, 1990, effective date approached, the Committee began to hear from the American Public Welfare Association and the states that compliance with the 30 day requirement would be expensive because it required a 30 day wait in cases where an individual was not contesting the findings.

The Texas Department of Human Services testified that the annual cost in Texas would be $5 million annually. 13 The State of Pennsylvania testified that the annual cost in Pennsylvania would be between $6 and $9 million. 14 The American Public Welfare Association estimated the nationwide cost at over $91 million annually. Since it is not clear how information supporting APWA figure was collected, the Committee is uncertain of the reliability of the estimate. Since testimony was received directly from officials in Texas and Pennsylvania, the Committee places more reliance on those estimates.

NOTE 13 Testimony of Commissioner Ron Lindsey, Texas Department of Human Services.

NOTE 14 Testimony of William Thurman, Pennsylvania Department of Public Welfare.

H.R. 5450 modifies the due process time period. Where an otherwise applicable statute or regulation requires a notice to be sent to an individual before taking any adverse action based on the information disclosed under a computer matching program and requires the agency to withhold the action until a specified period of time after notice is given, that time period will be adequate for purposes of the Computer Matching Act.

If a benefit program does not have a time period for notice established in law or regulation, then the existing requirement for a 30-day notice period is retained. As a result of the change made by H.R. 5450, benefit programs such as Food Stamps, Medicaid, and AFDC will be able to operate under existing procedures that generally call for withholding adverse action until 10 days after notice has been given. The practice in these programs has been to withhold adverse action for an additional period if the individual contests the proposed action. Nothing in H.R. 5450 or in the Computer Matching Act would interfere with this additional period.

TRANSITION

The amendments made by H.R. 5450 take effect upon enactment. The due process amendment will be immediately effective without the need for a special transition process.

However, it is evident that it will take several months before any program can meet the statutory requirements for the alternative verification procedure. The alternative procedure requires a determination by a Data Integrity Board before it can be used. Those determinations may require guidance from OMB. Section 2(b) requires OMB to publish final guidance not later than 90 days after the date of enactment.

Section 3 of H.R. 5450 provides a special transition provision for benefit and identification information provided under a matching program to the Medicaid, Food Stamp, and Aid to Families with Dependent Children programs. The Committee believes that this information is likely to qualify for the

alternative procedure because it appears to meet the required level of accuracy. This conclusion is based in part on information provided to the Committee by the Social Security Administration and the Office of Management and Budget. SSA reported:

> The computer records maintained by SSA of those who are eligible to SSI are subjected to rigorous periodic cross-checks to assure that the information is accurate. Moreover, each change made to an individual's records produces a notice that informs the recipient of the change and what they need to do if they think the proposed change is wrong. Appeal rights are described in detail in all of these notices.
>
> Copies of these records are periodically shared with the States, which gives them highly reliable current information about an individual's eligibility to SSI and the amount paid to the eligible individual for any month. 15

NOTE 15 See letter from James B. MacRae, Jr., Acting Administrator and Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, to Chairman Robert E. Wise, Jr., Subcommittee on Government Information, Justice, and Agriculture (Sept. 12, 1990).

To avoid any unnecessary implementation expenses, the transition provision permits these three programs to use the alternative procedure immediately for this information.

This special authority to use this procedure expires when the appropriate Data Integrity Board determines that there is not a high degree of confidence in the accuracy of the information or 30 days after the date of publication of the OMB guidance. In other words, there is a grace period for these three programs that expires if a Data Integrity Board finds evidence that questions the accuracy of the data. Data Integrity Boards are only required to take action during this period if evidence questioning data accuracy comes to their attention. Once OMB guidance has been issued, the Boards have 30 days to make the requisite positive determination that will be necessary for continued use of the alternative verification procedure.

Section-by-Section Analysis

SECTION 1. SHORT TITLE

The Act may be cited as the "Computer Matching and Privacy Protection Amendments of 1990".

SECTION 2. VERIFICATION REQUIREMENTS AMENDMENT

Subsection (a) of H.R. 5450 amends existing subsection (p) of the Privacy Act (5 U.S.C. Sec. 552a(p)) as amended by the Computer Matching and Privacy Protection Act of 1988.

The amendment creates an alternative to the existing independent verification requirement for information provided through a matching program. The alternative procedure permits use of information for adverse action against an individual without independent verification if the Data Integrity Board of the recipient agency--or in the case of a non-federal agency, the Board of the source agency--has determined that (I) the information is limited to identification and amount of benefits paid by the source agency under a federal benefit program; and (ii) there is a high degree of confidence that the information provided to the recipient agency is accurate. A Data Integrity Board must make its determination in accordance with guidance issued by the Director of the Office of Management and Budget.

The amendment to subsection (p) also modifies the existing requirement that any adverse action based on information obtained through a matching program be suspended for a 30 day notice period. The amended language requires suspension for any time period established for the program by statute or regulation for the indivdiual to respond to the notice. The 30 day notice period is continued in the case of any program for which no such period is established.

Subsection (b) requires that the Director of the Office of Management and Budget publish guidance required under the amendment made by subsection (a) not later than 90 days after the date of enactment.

SECTION 3. LIMITATION ON APPLICATION OF VERIFICATION REQUIREMENT

This is a transition provision which permits the alternative to independent verification to be used by the Foods Stamp, Aid to Families with Dependent Children, and Medicaid programs immediately upon enactment of H.R. 5450 until the earlier of (1) the date on which the Data Integrity Board of the federal agency which administers the program determines that there is not a high degree of confidence that information provided by the agency under the matching program; or (2) 30 days after the date of publication of the OMB guidance as required under section 2(b) of H.R. 5450.

Estimate of the Congressional Budget Office

The following estimate prepared by the Congressional Budget Office is submitted as required by clause (2)(l)(3)(C) of House rule XI.

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 27, 1990.

Hon. John Conyers, Jr.,
Chairman, Committee on Government Operations,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 5450, Computer Matching and Privacy Protection Amendments of 1990, as ordered reported by the House Committee on Government Operations on September 26, 1990.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert F. Hale
(For Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 5450.
2. Bill title: Computer Matching and Privacy Protection Amendments of 1990.

3. Bill status: As ordered reported by the House Government Operations Committee, September 26, 1990.

4. Bill purpose: H.R. 5450 would amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals' eligibility for Federal benefits.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
AFDC:					
Estimated budget authority	0	-5	-10	-10	-10
Estimated outlays	0	-5	-10	-10	-10
Food stamps					
Estimated budget authority	0	-15	-25	-30	-30
Estimated outlays	0	-15	-25	-30	-30
Medicaid:					
Estimated budget authority	0	-15	-35	-40	-45
Estimated outlays	0	-15	-35	-40	-45
Total spending:					
Estimated budget authority	0	-35	-70	-80	-85
Estimated outlays	0	-35	-70	-80	-85

Basis of estimate: H.R. 5450 amends the United States Code relating to the use of computer matches to verify payments to people participating in federal benefit programs. The Computer Matching and Privacy Protection Act of 1988 amended the requirements relating to these computer matches in such a way as to raise federal and state government costs in these benefit programs. These amendments would alter the computer matching requirements in two ways that would reduce the federal and state costs associated with the 1988 amendments.

First, H.R. 5450 would permit state agencies to continue to use time periods already established in law or regulation to notify recipients of any adverse action caused by the agency's redetermination of benefits as a result of a computer match. Under current law, states generally notify recipients 10 days before an adverse action, whereas the 1988 amendments increased the time period to 30 days. Second, states would not have to independently verify data

resulting from the computer matches if the Data Integrity Board of the agency determines that there is a high degree of confidence that the data are accurate and if the information is limited to the receipt and amount of benefits paid under a federal benefit program. The 1988 amendments would have required independent verification of information from all computer matches.

The major means-tested programs administered by states--Aid to Families with Dependent Children (AFDC), Food Stamps, and Medicaid--make extensive use of computer files from the Social Security Administration (SSA) and the Internal Revenue Service (IRS) to verify incomes of recipients. The SSA data generally cannot be verified independently. Moreover, requiring a 30-day notice of adverse action rather than a 10-day notice allows recipients to receive benefits to which they were not entitled for a longer period of time, thereby raising costs in these benefit programs.

CBO has estimated the savings associated with a return to the 10-day notice period. The estimates, shown in the table above, are highly uncertain. No data are available at the federal level on the numbers of persons adversely affected by information derived from computer matches. Estimates of savings for each of the three programs were prepared by 12 states for the American Public Welfare Association. The states' estimates, however, vary greatly and are poorly documented. Generally, the states estimated the numbers of recipients affected by computer matching information, and then assumed that savings for each affected recipient would accrue from this legislation equal to 20 days of benefits a year (30 days' delay versus 10 days). To develop its estimate, CBO took the median savings for these states and increased them to national payment totals in each of the three programs. Estimated savings from repealing the 30-day notice requirement of the 1988 amendments have been reduced to zero in 1991 and half of full-year costs in 1992 because no state has yet implemented the 1988 amendments.

Apart from their general uncertainty, these estimates may be too high or too low because aspects of this legislation could not be estilated. First, the CBO estimates do not take account of any savings associated with not dropping the requirement of independent verification. These savings could be large if states were not able to use some of the computer matching information. Second, our estimated benefit savings may be too high because some of the overpayments might be subsequently recovered, although

administrative costs associated with overpayment recoveries offset much of the benefit savings. Finally, we have not included any savings from the avoidance of administrative costs for computer modifications needed to implement the 1988 amendments.

6. Estimated cost to State and local governments: States and localities, as well as the federal government, would also experience budgetary savings from these amendments. The states on average pay for 45 percent of the benefit costs in the AFDC and Medicaid programs. In the Food Stamp program, however, the federal government pays for all of the benefit costs. Estimated savings to states and localities are shown in the table below. They are subject to the same uncertainties noted above for federal government savings.

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
AFDC	0	-5	-10	-10	-10
Medicaid	0	-15	-30	-30	-35
Total	0	-20	-40	-40	-45

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Julia Isaacs (Food Stamps) and Janice Peskin (AFDC and Medicaid).
10. Estimate approved by: C.G. Nackols, for James L. Blum, Assistant Director for Budget Analysis.

Committee Estimate of Cost

The Committee accepts the cost estimate of the Congressional Budget Office.

Inflationary Impact

In accordance with clause (2)(l)(4) of House rule XI, it is the opinion of the Committee that the provisions of this bill will have no inflationary impact on prices and costs in the operation of the national economy.

Oversight Findings

The Committee has made no detailed findings or recommendations other than those contained elsewhere in this report.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Section 552a of Title 5, United States Code

Sec. 552a. Records maintained on individuals

(a) * * *

* * * * *

[[(p) Verification and Opportunity to Contest Findings.--(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until an officer or employee of such agency has independently verified such information. Such independent verification may be satisfied by verification in accordance with (A) the requirements of paragraph (2); and (B) any additional requirements governing verification under such Federal benefit program.

[[(2) Indpendent verification referred to in paragraph (1) requires independent investigation and confirmation of any information used as a basis for an adverse action against an individual including, where applicable--

[[(A) the amount of the asset or income involved,

[[(B) whether such individual actually has or had access to such asset or income for such individual's own use, and

[[(C) the period or periods when the individual actually had such asset or income.

[[(3) No recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program, (A) unless such individual has received notice from such agency containing a statement of its findings and informing the individual of the opportunity to contest such findings, and (B) until the subsequent expiration of any notice period provided by the program's law or regulations, or 30 days, whichever is later. Such opportunity to contest may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program. The exercise of any such rights shall not affect any rights available under this section.

[[(4) Notwithstanding paragraph (3), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during the notice period required by such paragraph.]]

(p) Verification and Opportunity to Contest Findings.--(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until--

(A)(i) the agency has independently verified the information; or

(ii) the Data Integrity Board of the agency, or in the case of non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that--

(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of--

(A) the amount of any asset or income involved;

(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

(C) the period or periods when the individual actually had such asset or income.

(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during the notice period required by such paragraph.

* * * * *

XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5835.

□ 1446

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991, with Mr. MAVROULES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as read the first time.

Under the rule, the gentleman from California [Mr. PANETTA] will be recognized for 1 hour and 30 minutes, and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 1 hour and 30 minutes.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

(Mr. PANETTA asked and was given permission to revise and extend his remarks.)

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 5835, the Omnibus Budget Reconciliation Act of 1990. It is the principal implementing tool of the budget resolution that was adopted last week. It represents the work of 12 House authorizing committees pursuant to the instructions that were contained in the budget resolution, House Concurrent Resolution 310, which was adopted by both the House and the Senate.

The committees were instructed by the budget resolution to report legislation producing a total of $24.3 billion in deficit reduction for fiscal year 1991 and $246.2 billion over the 5-year period from 1991 to 1995.

In fact, the committees, in the bill that is before us, have exceeded those instructions. The committees have produced $30.4 billion for fiscal year 1991, almost $6 billion in excess of the instructions in terms of deficit reduction, and $251.6 billion over 5 years, almost $5 billion in excess of the target.

That represents a significant increase in the level of deficit reduction over that provided in the instructions. The committees have not only met the targets, they have exceeded them.

□ 1450

Mr. Chairman, this is by far the largest deficit reduction package ever to be considered by the Congress. I hope we can adopt it in the House today, move quickly to a conference with the Senate, and have a reconciliation bill on the President's desk by Friday.

The reason that we must move this legislation is obvious to all of us. We are at the present time in crisis, a crisis in government, a crisis in the economy, and a crisis in confidence in the institution of government itself. Once again, the President is threatening to shut down the Government of the United States, and it is clear that he is looking for, perhaps, any excuse to do so. If we do not act now, he shall have that excuse.

Clearly, Mr. Chairman, this is only one of many reasons to try to enact the legislation before us, but it is certainly the reason that we have to act today, not tomorrow, not the next day, not next week, but today to complete the work that is before us.

Members are aware of why we are confronting the situation with the deficit. We are facing $300 billion annual deficits next year. They are sapping our economic strength, robbing our resources for the future, hurting us in terms of our ability to compete in the world of the next century. They continue to push up interest rates, adding to the difficult task of the Federal Reserve as it tries to face what is a likely recession in our economy, and growing inflation at the same time. What we are confronting is stagflation, the worst of all worlds, and in that atmosphere it is absolutely essential that we adopt strong deficit reduction.

Mr. Chairman, the authorizing committees are to be commended for the expeditious handling of this legislation. They received their instructions last Tuesday. By Friday of last week, 11 of the 12 committees had completed their work, and the final committee completed its work yesterday. So, we have been acting on a fast time frame, moving this legislation ahead, making very tough choices.

Mr. Chairman, these are not easy choices. Look at the elements of reconciliation. Every committee has had to make tough choices impacting on people, on farmers, on veterans, on the elderly, on students, on Government employees. We are asking Americans to help share the sacrifice of deficit reduction, and, when the Committee on Ways and Means amendment comes in, we are also going to be asking the wealthy to participate in that same sacrifice to try to reduce the deficit.

Let us be clear about what we are doing today. This is not a package of smoke and mirrors. Every element in this reconciliation package is real. Many Members like to talk about deficit reduction. But today we will find out what it really means to cast a vote for real deficit reduction, for real spending cuts and real tax increases.

Mr. Chairman, that is how to cut the deficit, whether we like it or not. The President has recognized that reality; the leadership in both the House and the Senate have recognized that reality. That is the only way we are going to get the job done.

Let me point out that this is a comprehensive package that contains $500 billion in deficit reduction from both

---

H.R. 5835, OMNIBUS BUDGET RECONCILIATION ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 509 and rule

spending and revenues over 5 years. As my colleagues will notice from this chart, entitlement programs and other spending reductions make up two-thirds, two-thirds, of the deficit reduction over 5 years. Revenues constitute about 30 percent of the package, and indeed over the 5 years spending reductions increase and revenue increases level off. The blue is the debt service which my colleagues see here.

So, Mr. Chairman, it is a balanced package. Some will argue that this is a tax package. Not true. This is a balanced package that involves spending reductions along with revenues.

Mr. Chairman, the targets achieved by the committees were largely the result of the budget summit agreement. Obviously, a majority, a bipartisan majority of the House, had some real concerns about the specifics of that agreement, and the House refused to adopt the agreement. And yet what we have now done is we have come back again. Based on the budget resolution we have provided flexibility to the committees, and I think it was the wisdom of the House that we have asserted priorities that we believe in the package that is before the House.

One of the most critical elements of this package, in addition to the spending restraints and revenues, is the enforcement package. Budget process reforms are now contained as the last title. These reforms grow also out of the budget summit. But they have been modified by a bipartisan leadership task force to address legitimate concerns that have been raised about future reliance on budget summits and about unfair and constitutionally doubtful infringements on the authority of the Congress.

Mr. Chairman, this package contains real, tough enforcement for all of the caps in the overall summit agreement. It is not easy, and yet it is our responsibility, not only to assert that we are going to achieve 5-year deficit reduction, but to mean it through meaningful enforcement changes.

The bottom line is: These provisions mean that the deficit reduction that the Congress and the President agree to this year is real. It is not here today and gone tomorrow, like so many deficit reduction efforts of the past. It is one more reason that those who truly believe in deficit reduction should vote for this legislation.

Mr. Chairman, the American people are watching us today. This is not an easy vote for anyone. It is a tough vote. It may be the most difficult vote that we cast in the 101st Congress.

However, Mr. Chairman, every Member should keep in mind, keep in mind, the impact on this institution and on our country if we fail to act today.

Most of us had the opportunity to go home this past weekend and listen to our constituents. I say to my colleagues, if yours are anything like mine, they were saying one thing:

Do what is right. Do what is fair. But above all, get it done.

We have the opportunity, as this debate goes on, to do what is right, and we will have the opportunity to decide what is fair. But above all, when the time comes for final passage, we had better get it done.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentleman from California [Mr. PANETTA] for yielding.

Mr. Chairman, I rise simply to commend the gentleman for his leadership as chairman of the Committee on the Budget through all these long, torturous months and for providing the leadership that is essential to get something done here in this body, and to do it with good humor and clarity. As just one Member of Congress, I would like to express my personal appreciation to the gentleman from California [Mr. PANETTA] for being a distinguished legislator.

Mr. PANETTA. Mr. Chairman, I appreciate the comments of the gentleman from Florida [Mr. FASCELL].

Mr. Chairman, I reserve the balance of my time.

Mr. FRENZEL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Chairman, members of the Democratic Party, members of the Republican Party, and taxpayers of America, in 1985 House Republicans wrote a budget called Group 92 which was debated on the floor. Our budget called for a freeze across the board. Democrats had a plan. Republicans had a plan. I learned my lesson then, and I learn my lesson today, that the American public are looking for two ideas to govern. This year, the Democrat have presented a plan which raises taxes by $150 billion over the next 5 years. Let them take that plan to the country, put it on the table, and let us take a good look at it.

Now we the Grand Old Party, have created a plan that reduces spending with no new taxes. Frankly, I think the people of America are entitled to see that plan, too.

Not today. The rules around here say, "Sorry, folks. In this democracy, we're only giving you one plan, the Democratic plan. We're not going to give you fair rules and allow you to see the Repulican plan with no taxes and a reduction of spending."

□ 1500

That is the crisis in America. Eighty-three percent of the people of the United States want a reduction in spending, not new taxes. I do not know why we cannot get that through our heads here. That is why we are here in Washington with this long debate. The process has fallen apart.

We have been believers over the years, and frustrated here, because we have had an authorization tier, an appropriation tier, a budget tier, and now a summit tier. That is why this process has broken down.

It is not the President. It is not the Democrat or the Republican Party. We have built an empire in Washington that is self-destructing, and the people of America have said no more. What is happening in this country?

I suggest that we get back to the basics. As the coach says, you have got to learn to field and you have got to learn to hit and you have got to learn to bunt, to play the game with rules, even rules, straight up, straight down. No more, no less. That is all we ask.

But the athlete here says that we have rules for only one party. The Democrats are in charge. Tough luck, Repubicans, no deal. No rule and no chance to offer a plan.

Mr. Chairman, all we ask here in this body, representing the people of this country, is to present a plan for the people to see. Let them take their choice which one will govern America: The Republican plan or the Democratic plan.

In my polls, 83 percent of the people in my district in Michigan want reduction in spending. I do not get many letters that say increase taxes.

I will be the first to admit, as a member of the Appropriations Committee it is very easy to spend dollars when it is someone else's money. Without looking on the revenue side of budget reconciliation, it was real easy for me to do what the appropriators are suppsed to do. More projects and more spending, for every group.

People come to Washington and say give us a balanced budget, but we want our subsidy. Every group in America is saying that. But 83 percent want a reduction in spending.

In my Energy and Water Subcommittee, I walked into the conference committee in the Senate last Friday and said, "Look, I am making some new choices around here. Would you take out the River Rouge project," which is a $3 million project that I had requested. I will admit to the public and to the taxpayers that when I saw that River Rouge project, 7 miles long, I saw another river alongside that was full of red ink.

Mr. Speaker, I have three grandchildren. I have had to make some tough choices for them and I am willing to take $3 million out. It is only a little bit of money, but it tells me that CARL PURSELL is ready to make tough choices.

The gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget, said this is the day to make tough choices. I agree with him. That is what the citizens are saying. Stand up and make those tough choices. Give us a chance to offer our budget. It is better for America.

Mr. PANETTA. Mr. Chairman, I yield 4 minutes to the distinguished

gentlewoman from California [Mrs. BOXER].

(Mrs. BOXER asked and was given permission to revise and extend her remarks.)

Mrs. BOXER. Mr. Chairman, I want to thank the gentleman for yielding to me. It is such an honor to work with the gentleman from California [Mr. PANETTA]. He is showing his leadership once again today. I also want to associate myself with is remarks, which I thought really put this whole issue on the line.

Mr. Chairman, I have to say to my Republican friends, they talk about tough choices. I have their proposal. This is another black box approach—a secret spending cut plan. They take nondefense discretionary spending and they say they cut $66 billion out. They do not say where. Is it drug enforcement? Is it air traffic control? They duck the hard issues. Not to over-emphasize their plan—let it be clear that they just do not meet the deficit reduction targets that President Bush said he required. So their plan is a nonstarter.

Mr. Chairman, it is true as the country watches us debate this budget that we do not always look pretty. We do not always look composed. Our feelings show on both sides. We get angry. But I think that is OK. This is a debate about the direction of our country, and it is not just about this year, it is about the next 5 years. It is about what gets cut and by how much. It is about who pays and how much. It is a debate about the needs of our country, and it is a debate about how needs to do the most to solve the deficit crisis.

Mr. Chairman, should it be the poor? I think not. Yet in the President's summit the poor would have paid 7 percent more in taxes.

Should it be the middle class that pays? I think not. Yet in the President's summit, the middle class would pay less than the poor, but more than the super wealthy.

Imagine, the middle class and the poor would pay more than the wealthy in the President's summit plan. That is Robin Hood in reverse. It is fairness on its head. It is regressivity, not progressivity.

Mr. Chairman, I want to tell Members one story from the summit which shows the mean spiritedness and the utter bankruptcy of the President's Republican representatives there at that summit.

While they kept protecting the very rich, while President Bush was collecting millions from millionaires to help his pet House and Senate Republican candidates, while George Bush was threatening to shut down this Government if we dared to touch the super wealthy, while all that was going on, the Republicans at the summit wanted to go overturn the Zebley case in order to raise another billion dollars of deficit reduction.

Fortunately, the Democrats knew what the Zebley case was. The Zebley case protects the most vulnerable among us, the most needy among us, children with crippling diseases, crippling disabilities. That is Republicanism, protecting the wealthiest, hurting the weakest, throw the middle class a crumb, while those over $400,000 a year and up get a souffle.

Mr. Chairman, thanks to the gentleman from Illinois [Mr. ROSTENKOWSKI] we are going to have a proposal with Democratic principles, and I hope every Member in this Chamber who believes in attacking this deficit in a fair way supports this. I am very proud to be a Democrat today, because I think the people are learning the difference between the parties. It is not lost on them. The President is still campaigning. He is still getting millions from the millionaires. We are here working for the people.

Mr. FRENZEL. Mr. Chairman, I yield myself 30 seconds to remind Members that Republicans are not allowed to make amendments. We are not allowed to play under any but the Democrat rules. We are the despised underclass of this House of Representatives. We are an abused and oppressed minority, and now we are told we have made tax policy for the last 20 years.

I believe that the gentleman from Illinois [Mr. ROSTENKOWSKI], the hero of the gentlewoman from California [Mrs. BOXER], has been tax chairman in this House for about 10 years. She should take her complaints to him.

I do not know the system comes to offend her; but certainly Republicans had little to do with controlling tax policy. We are not even allowed to make amendments.

Mr. Chairman, I yield 6 minutes to the distinguished gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, to those who are watching this debate today, I must say that you are going to be incredulous about what goes on in this Chamber. You are going to be very confused as to why it is that the Republican alternative was never permitted to be offered, and why it is that the Democrat majority is going to push through big tax increases.

If you are confused and frustrated, I urge you to write and call your Democratic Representative, because there is not a confusing debate here. I hope to outline it just very simply.

The debate today is really one on priorities. The question is, Do we raise taxes and spend the money as offered by the majority plan, or do we not raise taxes and control spending as offered by the Pursell-Kasich budget, which was not permitted to come to the floor?

Now, if you want to have a crack at not raising taxes and controlling spending, you have got to vote down this budget that the Democrats offered, that raises your taxes to the tune of about $180 billion, and does not control spending.

Mr. Chairman, it is really very simple. Let me just tell those who are watching this debate, who think that somehow the Democratic proposal is only a whack at the wealthy, I urge lower- and middle-income taxpayers to be aware of two particular items that they are going to find when April 15 comes and it comes time to file their income tax.

No. 1, under the Democrat plan, the personal exemption is cut. That is very clear. Everybody understands what that means.

That means the amount of money you should be able to claim as a personal exemption come this April will not go up at the rate it should. Your personal exemption will be cut, and you will be paying more taxes.

□ 1510

In the area of indexing, raising the rates actually occurs in this plan on individuals and families starting at an income level of $20,000. If you look at the Democrat table, those people between $20,000 and $30,000 are going to contribute $1 billion in taxes to solving this budget, just under the area of indexing.

So here we have two significant items that are going to jack up the taxes on middle- income and lower income Americans, and what they get in exchange for it are not cuts in spending.

That is what is so very, very hard to believe. In fact, I would like to outline quickly what the differences are between the two plans.

In the area of entitlements—entitlements, of course, are the programs that go up automatically without a vote of the Congress, and they include things like Social Security and Medicare. I have to tell Members that under the Republican plan, that has no tax increase whatsoever, that the savings that occur in the entitlement area are virtually identical to the savings that the Democrats make. So the argument that somehow Republicans would be hurting those on Medicare and Social Security, that is a bunch of bunk. Our numbers are exactly where the Democrat plan is.

In the area of defense, the Republicans cut about $100 billion and save about $170 billion over 5 years. What do the Democrats do? They save about $170 billion over 5 years. So in the area of entitlements and in the area of defense, the Republican and Democrat plans are just about the same.

Now where do they come apart? They come apart in two areas.

One is in the area of taxes, where the Democrats want to soak the American people for $160 billion in additional taxes, including significant tax increases for Middle America, for middle-income Americans. What does the Republican plan call for? It calls for extension of some existing reve-

nues that are now currently on the books and totals about $23 billion over 5 years versus the Democrat $180 billion tax increase.

Where is the other area that it differs? It differs in the area of discretionary spending. Those are the areas that we as a Congress can control because they do not go up automatically every year.

What are the Democrats proposing? The Democrats propose increasing discretionary spending to the tune of $180 billion.

What do the Republicans say? The Republicans say we want to control the increase in discretionary spending. We increase discretionary spending over 5 years by only $84 billion.

So in other words, the Democrat plan drives up discretionary spending by $180 billion. We increase spending in discretionary by only $84 billion.

How do the Democrats pay for their $180 billion increase in discretionary spending. They soak the taxpayers by $180 billion.

The bottom line is that we can get $410 billion in deficit reduction without a tax increase. The Democrats choose to have higher spending and higher taxes, higher taxes to the tune of $180 billion, and they do not control spending.

Look, folks, the American people do not want more of tax and spend. The American people want us to control the growth in Federal spending, and to do it responsibly. We have done it. The problems are protected in this budget. There is control on the growth of Federal programs.

But with the Democrats it is business as usual, more taxes and more spending.

I tell you that the American people reject that approach, and clearly, if given an opportunity to vote, would accept the Republican alternative, and would urge the defeat of the soak-the-taxpayer scam that the Democrats offer in their budget.

Mr. HUCKABY. Mr. Chairman, I yield 4½ minutes to the gentleman from New York [Mr. SCHUMER].

(Mr. SCHUMER asked and was given permission to revise and extend his remarks.)

Mr. SCHUMER. Mr. Chairman, last night some of us were in the Cloakroom watching the rerun of the biography of Richard Nixon, which had the Watergate week in Congress, Watergate time. When I thought about it, this is the most crucial week that Congress will face since that week, the most crucial week in 16 years because we have a handle on the debt problem that has bedeviled us for the last decade, to turn the slope around and have the percentage of debt to GNP actually go down over the next 3 years instead of going up as it has for the last 12. We have an opportunity for once in this body to see beyond the curve.

Yes, it is true, our constituents when we walk up to them are not saying please reduce the deficit. It is one of those abstract, around-the-corner issues that our politics does not handle very well.

But we are handling it well this week, at least so far, and that is our challenge. Savings is the key. If America has a weakness in our economy it is not that we have to restructure and become like Germany or Japan, but it is that we do not save enough. Individuals do not save enough, companies do not save enough, and their leader, the Government, does not save enough either. And this is the first time we have a message we can send, a message to America saying yes, we are willing to do it.

Once we reach that point, the logic flows inexorably in the direction of the Democratic plan. My colleagues on the Republican side of the aisle, you know it, you cannot get a handle on savings and on the deficit unless you raise taxes, period. There is not the votes on your side of the aisle for the kind of deep cuts that would have to be done in a true deficit reduction package without takes. There are not the votes with Mr. DOLE and Mr. DOMENICI, and the President himself crossed that Rubicon when he said he would no longer stick to "read my lips." He did, to his credit, put the benefit of the country ahead of a philosophy that is outdated.

Only the House Republicans cling to the discredited philosophy of the 1980's. And when they go out there on Main Street, they will find that their "no new taxes at all costs, even if it means the ruination of America" is not longer at the cutting edge. You may have been at the cutting edge in the late 1970's and the early 1980's, but you have lost it now, unlike your Senate counterparts, unlike your President.

If you are going to raise taxes, which has to be done, then the difference between the parties is clear, and that is maybe why Republicans run away from the tax issue, because our side is willing not to say that the middle class should get no taxes. They will get some. But to say that it ought to be proportionate, that it ought to be progressive, to say that the rich can pay a greater share than the middle class. It is not just the rich who will pay, but in the Republican plan they will not pay at all, and the middle class will pay, and pay and pay through the spending reductions that you wish to make, but do not outline as to how you would make them.

So our plan with the Rostenkowski amendment deals with the future and is fair.

Is there disappointment in it? Yes, I think the defense number, frankly, is outlandish. We could not get it lower. But it is not going to be a perfect plan for anybody, given the challenge, the future we face.

And I say to my colleagues on both sides of the aisle, if we want to stay No. 1 economically, if we want no longer to be afraid of the Germanys and the Japans, then we must, we must this week rise to the occasion, as our colleagues did 16 years ago, and vote for a fair deficit reduction plan that will keep American No. 1.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. GINGRICH], the Republican whip.

Mr. GINGRICH. Mr. Chairman, I thank my friend for yielding time to me.

Mr. Chairman, I want to say first of all that for 5 months the Democrats asked us to offer a budget. Today we offered a budget, and the Democrats promptly ruled it out of order. Their excuse was that the Republican budget did not fit the Democratic Party's requirements.

□ 1520

In this Congress, the Democratic Party waived the Budget Act 62 times, and 62 times the Democrats found an excuse to bring their new spending to the House floor. But the Republican budget did not increase spending. It cut spending.

So the Democrats refused to let it be voted on. Even worse, the Republican budget had no new taxes and achieved $410 billion in deficit reduction by controlling spending.

The Democrats are so committed to tax increases that they had to stop the Republicans from offering a no-tax-increase budget. Imagine how the average American must feel watching the arrogance of the leaders in some of the Democratic leadership. According to a public-opinion poll last week, the American people, by 83 percent to 12 percent, want to cut spending. The Democrats reject the 83 percent who want spending cuts and refuse to even allow the spending-cuts budget to be voted on. The Democrats sided with the 12 percent who want more spending.

In the same poll, the American people opposed tax increases by 76 percent to 21 percent. The Democrats reject the 76-percent anti-tax-increase majority and side with the 21 percent who want higher taxes.

Three weeks from today the American people can decide whether or not to give the Democrats more votes to raise spending and raise taxes or they can vote Republican for lower spending and lower taxes.

The Democratic Party's slogan is to tax the rich, but their budget today raises taxes on working Americans.

The gentleman from New Jersey [Mr. SAXTON] understands the cost of raising taxes on working Americans. In his State, Jim Florio, a Democratic Governor, has raised taxes massively, and his approval rating has dropped to 18 percent. The gentleman from New Jersey [Mr. SAXTON] calculated today that the Democratic Party budget will raise $654 on a family of four with $44,800 in taxable income. The Democratic plan raises $254 in taxes by rees-

tablishing bracket creep on every American who pays income tax. The Democratic plan raises $135 in an anti-family cut of the real value of dependent deductions. The Democratic plan raises $145 in Medicare taxes, and the Democratic plan raises $120 on the average family in excise taxes.

Let me just say this: if you ask the average American if you have to raise taxes, would you rather raise taxes on the rich, they would probably say yes. If you asked them do they want to raise taxes at all, they almost certainly say no.

(Mr. ROSTENKOWSKI asked and was given permission to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Chairman, in our democratic system we solve the Nation's problems by shopping in a marketplace of ideas. The bigger the problem, the more ideas we generally have to pick from.

Mr. Chairman, the budget is a big problem, a very big problem. And not surprisingly the marketplace of ideas for deficit reduction is crowded and noisy.

The provision reported out of the Ways and Means Committee without recommendation as part of budget reconciliation represents a modestly improved version of the Budget summit agreement which this Chamber rejected October 5. You will recall that the chief complaint against the summit agreement was that it was unfair, placing too much of the burden of deficit reduction on the backs of those least able to bear it.

The committee reported package repairs the more glaring flaws of the summit. First, it reduces by $10 billion the harsh provisions relating to Medicare beneficiaries, without abandoning the summit objective of achieving significant cuts in spending.

The package also lowers by 1 cent the gasoline excise tax increase which was included in the summit agreement, while eliminating the tax on home heating oil entirely. And it drops a provision that would have required a 2-week waiting period before unemployed persons could receive compensation. The guiding motive behind making both of these changes was to promote equity.

Finally, the Ways and Means Committee's reported bill strips away from the summit agreement $19 billion of revenue-losing provisions. This is,

after all, a plan to reduce the deficit, not to make it bigger.

The summit agreement included a collection of so-called small business growth incentives that no one liked. They were intended to promote economic growth. But the only growth these proposals would spark is growth in the tax-shelter industry.

The one revenue-losing provision from the summit which the committee retained was the expansion of the earned income tax credit. This provision is designed to ease the pain of deficit reduction on America's poorest people. Poor people did not benefit from the excesses which created the deficit. We see no reason to ask them to pay for the fiscal cleanup.

Mr. Chairman, we are fast approaching the time when we will have to make a decision on whether we are serious about reducing the deficit. The deficit debate has divided us like no other issue in recent memory. This division has yet to be resolved.

With this thought in mind, the Ways and Means Committee reported this package without recommendation. We believe that the deficit issue should not be settled either in secluded military quarters or by a select few.

Mr. Chairman, my guess is that the committee-reported provisions are everyone's second choice. Everyone seems to have a better idea. But, Mr. Chairman, it is not clear whether any of these better ideas can successfuly run the gamut of the legislative process.

This will not be our last vote on a budget deficit package. Whatever the outcome of future votes, it is important that we send the message to the American people, to the markets, and to the world that we are serious about the need for significant deficit reduction. Nothing less than our own credibility—the health of our economy—the standard of living of future generations—nothing short of the national interest is at stake.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, 2 weeks ago this Chamber rejected by about 60 percent on both sides a so-called bipartisan summit package that by almost any measure was not fair. It had heavy hits on the middle class on top of 10 years of hits through the payroll taxes and other ways. It has heavy blows on Medicare patients. It hit home heating oil and imposed a 2-week delay on unemployment compensation. Meanswhile it had almost no sacrifice in that package requested of the wealthy. In fact, there were $12 billion in tax giveaways for "growth" and another $4 billion in so-called energy incentives.

However, Mr. Chairman, today we have a chance to pass a very fair package. Both the bare bones package reported out by the Committee on Ways and Means without recommendation and the Democratic substitute are far more fair than the summit package. And they are real. They meet the $500 billion requirement of the President, unlike the Republican plan which does not. The Republican plan claims to cut only $400 billion, or only 80 percent of the assignment. In fact the reconciliation portion of the Republican plan, which we are debating today, only meets its assignment by about 50 percent.

Mr. Chairman, the Democratic alternative before us today is fair. It puts a 10-percent surtax on taxable incomes over $1 million. It asks those who make over $200,000 a year to pay a flat 33 percent of tax rate at the very top rather than dropping down to 28 percent, as they now do. It softens the hit on Medicare, removes the home heating fuel hit, removes the 2-week waiting period on unemployment compensation, and removes altogether the increase in gasoline tax—a heavy part of the excise package we rejected 2 weeks ago.

The key fact, I say to my colleagues, is that the Democratic alternative of the Committee on Ways and Means is the first package of all the packages being considered, all of the packages being considered, that asks the wealthy to pay a greater proportionate sacrifice than the middle class. Every other package fails that test. I hope everyone will bear in mind this critical fact.

I urge adoption of the Democratic alternative deficit reduction package.

Mr. PANETTA. Mr. Chairman, I yield myself 30 seconds.

I say, Watch how your Congressman votes, because the test will be whether that Congressman votes for a fair package, for the deficit reduction, and not one that just puts the burden on the middle class and the poor.

No. 139—Part II

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

Vol. 136 WASHINGTON, TUESDAY, OCTOBER 16, 1990 No. 139—Part II

House of Representatives

□ 1610

H.R. 5835, OMNIBUS BUDGET RECONCILIATION ACT OF 1990

(Continued)

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. ROHRABACHER].

(Mr. ROHRABACHER asked and was given permission to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Chairman, America has two alternatives—we are told the Republican alternative doesn't meet the President's deficit reduction challenge. So the House won't even have the chance to vote on it.

We are told the Democratic alternative is better, even though its supporters obviously don't think it can withstand head on head competition.

Mr. Chairman, contrary to what we are being told the Republican alternative lowers the level of deficit spending. The Democratic tax and spend proposal will do little work than tax us into recession, leaving us with a higher level of deficit spending.

The Republican proposal is progrowth, antirecession, and encompasses spending controls and process reform.

The Democratic plan is soak the rich rhetoric, then business as usual tax, spend, and decline. Anyone who believes this antiprogress and anti-take-home-pay scheme will actually reduce the deficit should be in the market for cheap junk bonds or a gulf-view condo in Kuwait.

The Democrat plan will push the economy over the edge and when we are in recession and the deficit mushrooms they will be pointing fingers, instead of looking in mirrors.

The Republican alternative keeps faith with the taxpayers and with the retirees, and with the young people who will be looking for meaningful employment * * * young people who will be taxed-out of jobs by the Democrat tax and spend scheme.

Its time to quit trying to mobilize support for high tax programs by cultivating envy. The Republicans have a positive alternative, let's bring down the deficit by controlling spending, not raising taxes.

The American people are not fooled by all this tax the rich rhetoric. The Democrats have been in control of this House for decades. All the tax hikes and loopholes were not put in place by the Republican minority. We cannot even get our bill on the floor for an honest vote.

Finally, next year when our people are suffering recession, they will know who to blame for no jobs and increasing deficits, it will be the Democrat Party who refused even to permit an alternative from being considered, who will bare the blame. And all your talk about the wicked 1980's won't change the fact that you have taken America back to the depressing 1970's.

□ 1630

Mr. PANETTA. Mr. Chairman, I yield myself 15 seconds just to make clear that the Republicans were not denied the opportunity to offer an amendment. They were denied the opportunity to offer an amendment that did not meet the numbers.

They could have fashioned it in any way they wanted as long as they met the numbers. So this is not the issue of whether or not they had the opportunity to offer an amendment.

We wanted them to offer one that met the numbers that the President wanted us to achieve in terms of deficit reduction.

Mr. FRENZEL. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the distinguished chairman of the Committee on the Budget spoke a moment ago and said that our amendment did not conform to the summit agreement.

I must tell the Members that there is nothing that is being presented on this floor that conforms to the summit agreement. The committee bill and the Rostenkowski amendment do not conform.

I must further tell the Members that, based against the CBO baseline, there is no alternative today that exceeds $500 billion or reaches it. It is only the expanded summit baseline that makes this package before us equal to $500 billion savings.

The reason it makes $500 billion is because the majority was willing to take the baseline from the summit, and to take $500 billion from the summit, but not to take the rest of the summit agreements.

What they are telling us is, "You cannot offer an amendment unless you do the same dumb things we Democrats have done." We Republicans are unwilling to do that, and we will let the public decide whether it was fair for them not to let us offer our amendment or not. We are not going to let Democrats decide what was fair.

Mr. CONYERS. Mr. Chairman, I rise in support of H.R. 5835. In its final form, after all the amendments are adopted, it will be a good bill given the limitations placed on the legislative branch to reach agreement with a President more intent on preserving the privileges of the wealthy than on rebuilding our economy and restoring fairness.

I had hoped to be voting today for a package that is not only fiscally responsible, but also makes major new investments in our people, realizes the full possibilities of an end to the cold war, and fully recovers from the wealthy what was stolen from the rest of the American people during the greedy days of the 1980's.

However, with the adoption of the Rostenkowski amendment on revenues and entitlements, I believe this bill represents a significant step in the right direction.

Mr. Chairman, as the chairman of the Committee on Government Operations which has principal jurisdiction over reforms to the budget process, I also am here to offer my views on title XIV of the reconciliation bill, which makes extensive revisions to the Gramm-Rudman-Hollings law and to the Congressional Budget Act.

It is not easy for me to come before this body to speak in favor of including this title into the Reconciliation Act. In a very real sense we are creating Gramm-Rudman-Hollings 3. I opposed the original Graham-Rudman-Hollings law in 1985. I opposed the revisions made in 1987. And if I could have my way today I would propose a significantly different budget process reform bill.

But this title, like the budget resolution the House passed last week, is a product of extensive negotiations with the administration at the budget summit. Budget task force meetings among relevant House committees have worked out the details of title XIV. Everyone knows the fate of the summit agreement is intimately linked with the budget process revisions and enforcement provisions of this title.

There are two important provisions in this title the American people should know about. First, the surplus in the Social Security trust fund will no longer be able to be used by this "read my lips and read my hips" President to mask the true size of the deficit. Truth in budgeting will be advanced and the elderly better protected.

Second, the administration will no longer be able to manipulate economic assumptions and overestimate tax collections, in order to trigger a sequester to reduce the deficit. As a result, Congress should no longer face the demagoguery of the White House as it tries to blame the Congress for causing a sequester which in reality is caused by unrealistic numbers from OMB.

The changes envisioned by this title will undoubtedly create a straitjacket approach to Federal budgeting. This probably will ensure that greater deficit reduction is achieved than in previous years. On the other hand, it will take a great deal of discretion away from Congress when it comes to setting spending and revenue policy.

For the next 3 years, and perhaps for the next 5 years, our hands will be tied tight. We will have little opportunity to raise new taxes to pay for our mounting social needs, to take advantage of what should be a large peace dividend, and to fund new investments needed to meet our urgent human needs and to make our work force more productive. And outside of today's vote on the Rostenkowski amendment, we will also have little ability to recoup the huge tax breaks which the wealthy have received over the past decade from supply-side economics. Such restrictions truly make these budget process revisions a mixed blessing.

Mr. RICHARDSON. Mr. Chairman, there is something worse than not having a budget Friday and shutting down the Government, and that is a lame duck session. Talk about the voters being mad now. Wait until we go back and face the voters when there is a lame duck session and we haven't acted on the deficit.

House Republicans have their plan, and House Democrats have their plan, but where is President Bush? Where does he stand? Why is he more comfortable negotiating with Gorbachev than he is with ROSTENKOWSKI or BENTSEN? Why does he build coalitions in foreign policy and negotiate face to face, and be totally engaged with foreign leaders, and when it comes to the budget and domestic policy he is not interested. In fact, he is out campaigning for Republican candidates, playing politics?

We are stuck here in Washington. We are absorbing these painful debates with extreme difficulty, both sides, but the President is out. Where is he? We need the President to show some leadership?

The Democratic alternative is a plan that is a dramatic improvement over the budget summit agreement or any other proposal. We have attempted to reflect the strong sentiments of Democrats about tax fairness. The plan is both significant and real.

The deficit reduction issue has served to highlight philosophical differences between Democrats and Republicans. The goal of the budget summit agreement endorsed by the President and the bipartisan leadership was to reduce the deficit by $500 billion over the next 5 years. The Democratic alternative fully achieves that level of deficit reduction, but in a way that is fair to all Americans.

The budget summit agreement which the House rejected on October 4, clearly placed far too much of the deficit reduction burden on Medicare beneficiaries, as well as other low- and middle-income Americans. We have a far superior plan that requires more of a contribution to deficit reduction from individuals who are best able to afford it.

The Democratic alternative also puts an end to the false notion that only wealthy Americans are able to help the economy grow. We have greater confidence in middle-income Americans. This alternative provides savings and investment incentives to the small businessmen, farmers and small investors who are the backbone of our economy. A deficit reduction package that is both fair and real in the best stimulus for economic growth.

Enactment of the Democratic alternative will be a major step forward for our country, restoring fairness to our Tax Code and confidence abroad.

WAYS AND MEANS DEMOCRATIC ALTERNATIVE SUMMARY

1. The proposed level of increased Medicare beneficiary payments would be reduced from the $28 billion contained in the Summit Agreement to $10 billion. Total Medicare savings would be $43 billion rather than $60 billion.

2. The 2-week waiting period for unemployment benefits would be dropped. (This proposal was also dropped from the modified Summit Agreement reported to the House Budget Committee on October 10.)

3. The $2 billion of new entitlement spending, and the $19 billion of revenue losers (enterprise zones, energy incentives, extenders and the so-called "growth" package) would be dropped.

4. The following revenue provisions would be dropped entirely from the Summit Agreement: The gasoline tax and the petroleum tax; the limitation on itemized deductions; the HI tax on State and local government workers; the disallowance of interest paid on corporate tax deficiencies; and the increase in railroad tier II taxes.

5. The following provisions of the Summit would be modified: Airplanes would be added to the luxury tax; and the distilled

spirits tax increase would be $1.00 rather than $1.50.

6. To deal with the progressive problem of the Summit Agreement, the Democratic Alternative would add the following provisions: the "bubble" would be eliminated and an explicit 33 percent rate bracket would be added; the rate of the individual minimum tax would be increased from 21 percent to 25 percent; the HI wage cap would be increased to $100,000 rather than $73,000 as provided in the Summit Management; indexing of the tax brackets and the personal exemption would be delayed for one year, and a 10 percent surtax would be imposed on individuals with taxable incomes above $1 million.

[From the AARP News, Oct. 15, 1990]

STATEMENT ON BUDGET RECONCILIATION PROPOSALS

"The American Association of Retired Persons (AARP) believes that it is vitally important that the Administration and the Congress work together over the next several days to enact into law a federal budget that fairly distributes the burden of deficit reduction among all Americans," said Horace B. Deets, AARP Executive Director.

Deets added, "to meet the test of fairness, this budget should take into account the policies of the last decade which have placed a greater and greater burden on those with modest incomes. Those who are more fortunate must now be asked to pay a little more.

"We are very pleased that the Congress has begun to recognize that older Americans should not be asked to pay more than their share," he noted. "Compared to the original summit agreement, the plans put forward in the House and the Senate over the last week reduce the burden on Medicare beneficiaries by nearly one-half to two-thirds. We are also pleased that the Committees rejected more onerous proposals that would have income-related Medicare premiums or made changes in Social Security.

"This week the Congress has a tough job. Faced with proposals from the House Ways and Means and Energy and Commerce Committees and the Senate Finance Committee, the Congress must shape a Medicare policy that the President and a majority in the Congress will support.

"The Democratic Alternative offered by the House Ways and Means Committee, when combined with the new Medicaid coverage both for low-income Medicare beneficiaries and for children included in the Energy and Commerce package, constitutes a fair and effective proposal. Among its strongest elements are: A Medicare deductible that would not rise above $100; and no increase in the amount that doctors can balance bill their Medicare patients above the additional 25 percent that was permitted in last year's Physician Payment Reform legislation.

Deets noted that the Senate Finance Committee's proposal is "far less acceptable in its present form. With its doubling of both the Medicare Part B deductible and the amount some doctors can "balance bill" their Medicare patients above the Medicare-allowed rate; its very limited protections for low-income Medicare beneficiaries; and its reinstated coinsurance on laboratory services, the Finance Committee's proposal clearly places a much heavier burden on the most vulnerable—those who are sick and those who have low incomes.

"The welfare of Americans of all ages is at stake in this budget debate," Deets concluded. "The across-the-board cuts of a sequester or of a government shut-down would take a dangerous toll on our nation's economy and the millions of Americans—old and young, rich and poor—who depend on government programs and services. It's time to put aside partisan politics and find a solution to the budget crisis that will be fair, equitable and affordable for the American people."

Ms. OAKAR. Mr. Chairman, first of all I would like to compliment my friend, the gentleman from California [Mr. PANETTA], distinguished chairman of the Budget Committee, for all of his patience and hard work. I also want to pay special tribute to the chairman of the Ways and Means Committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], for attempting to do something that would indeed be much more fair to the vast majority of the American people.

The alternative Democratic budget requires that those who benefited from the Reagan years must help to pay for the Reagan years. It is that simple. It eliminates the tax bubble for the rich. It imposes a 10-percent surtax on incomes over $1 million.

□ 1740

Who can quarrel with that when the middle class has been picking up the tab for the majority of Americans for so many years?

This package is much, much more fair to older Americans. It reduces the unfair hit on Medicare beneficiaries' out-of-pocket expenses. It saves the cost-of-living adjustment not only for Social Security recipients but for Federal retirees and railroad retirees, and it drops a grossly unfair provision contained in the summit deal that would impose Medicare tax on State and local government workers that already are paying their share of retirement coverage.

In addition to that, it is sensitive to the needs of the unemployed, and it drops the 2-week waiting period for unemployment checks.

In addition, it drops the regressive gasoline tax. How can anyone quarrel when the alternative budget will drop the 9-cent gasoline tax and scales back the proposed tax on liquor?

I urge passage of the alternative Democratic substitute.

I voted against the budget summit package, because it placed an unfair portion of the burden of deficit reduction on older Americans and middle-income Americans.

Mr. Chairman, over the last 10 years, the period in our history that I refer to as the lost decade, we saw huge increases in defense spending, enormous tax breaks for the rich, and enormous cuts in programs that benefit middle-income Americans. During this period of voodoo economics our Nation's deficit tripled. Now we are asked to pay for this decade of excess and inequity. Although there are several items in this package that I don't like, no better or fairer plan, that deals responsibly with deficit reduction has been forthcoming from my colleagues on the other side of the aisle. The deficit is a cancer which threatens the future of young Americans. Medicare premiums will not be increased in the first year. I am concerned about increases in the future but I believe that in the future Americans will demand universal health coverage for all Americans. I believe health care is the No. 1 domestic issue and we must address it comprehensively. I will continue my own fight to reverse this funding trend, yet the proposal offered by Chairman ROSTENKOWSKI is much, much fairer than the $90 billion in Medicare cuts that the Republican alternative proposed.

My colleagues claim that there are no cuts in this package and that is not true. Most of the committees in this House met painful reconciliation targets. Yet, the alternative offered by my colleague from Illinois drops a dramatically unfair proposal to impose Medicare HI tax on State and local retirees who already have coverage. The alternative eliminates the

regressive and untimely gasoline tax that could cripple our interstate commerce; it drops unfair increases on tier II railroad retirees. Contrary to earlier recommendations, the package keeps a pledge to our civil servants for full cost-of-living adjustments for all Federal annuitants and, still retains a 50-50 lump-sum benefit for Federal retirees age 65 or with 30 years of service. The Democratic alternative drops the absurd 2-week waiting period for unemployment checks.

To do this, our distinguished Ways and Means Committee chairman simply asks us to require that wealthy Americans pay their fair share. This package eliminates the grossly unfair tax bubble. It increases the Medicare HI wage cap from $53,000 to $100,000. It requires the Donald Trumps of this world to pay a little more tax on their yachts and private jets. No, Ms. Helmsly, taxes are not just for the little people. Those who benefited from the Reagan years must be asked to help pay for the Reagan years. I urge my colleagues to support the Rostenkowski amendment.

Mr. HEFLEY. Mr. Chairman, today we are witnessing a triumph for left-wing politics in America. After having their pro-tax candidates completely defeated in the previous three Presidential elections, their strong-arm congressional leadership run out of office in disgrace, and their remaining leadership divided and weak, the Democrats have rebounded to what can only be described as one of the great come-from-behind victories of all time.

This reconciliation package is the symbol of that victory.

Just what does this "victory" mean for the American taxpayer,

A record tax increase: Americans currently carry the highest peacetime tax burden in history. This plan would add to that burden a record tax increase of $144.7 billion over the next 5 years. If you include increased user fees and other expenses, this package will increase the cost of the Federal Government to Americans by $177.7 billion.

Abuse of Federal trust funds: This package abuses several of the Federal trust funds, including Social Security, by raising their respective fees and then using that money to balance the budget.

No spending cuts: With the exception of defense, there are no spending cuts included in this package. All other Federal spending areas are slated to increase over the next 5 years.

Bogus economic assumptions: The economic assumptions included in this plan predict record economic growth and interest rates that haven't been seen in the last 25 years. If these assumptions are true, then we don't need a tax increase to balance the budget; if we adopt this tax increase, there's no way these economic assumptions could possibly come true.

Mr. Speaker, the economy is slowing to a crawl, inflation is rising, and the Democrats are calling for a tax increase. Business as usual is too light a term to describe what is happening in the House today.

At the same time, Republicans have been completely shut out of the legislative process. Democrats have stated that the Republican alternative was not allowed to be considered because it fell $100 billion short of the deficit reduction targets included in the budget resolution.

Their own proposal, they claim, lives up to the $500 billion in deficit reduction required by that resolution. The truth is the Democrat plan won't cut the deficit by $1, let alone $500 billion. Here's why.

No spending restrictions: Without enforceable spending caps, Congress will continue to spend more money than it takes in. In the post-war period, Congress has spent $1.58 for every dollar it raises in taxes.

Over-priced tax increases: Congress chronically over-estimates the amount of revenue it will raise by increasing taxes. Every tax increase we passed during the 1980's failed to raise as much money as the tax committees and Congressional Budget Office claimed it would.

Phantom interest savings: The interest savings included in this package are never going to happen. These projected savings are expected from lower future deficits and lower interest rates. Since neither is going to happen, interest expenses are going to increase, not fall.

If we adopt the Democrat's budget reconciliation package today, then next year we will have a larger deficit, an economy in recession, and a Federal budget process that failed in every way since its inception in 1974.

What can we do to avoid this? Adopt the Republican alternative.

Spending cuts: The Republican alternative includes real spending cuts. Our deficit problems are the result of too much spending, not too few taxes. The Republican alternative cuts defense spending and freezes discretionary spending, entitlements, and foreign aid.

Budget reforms: Furthermore, the Republican alternative includes much-needed budget reforms that will prevent this type of last-minute budgeting from happening in the future. These reforms include eliminating the fraudulent "current services" budgeting, so in the future a spending increase is called a spending increase, not a program cut.

No tax increases: Republicans recognize that Americans are drowning under thier current tax burden. For that reason, this package does not include any new taxes, including no increased Medicare premiums.

Mr. Chairman, if giving committee chairmen the responsibility of cutting spending was the way to reduce the deficit, we would have balanced the budget 20 years ago. The Democrat proposal demonstrates that truth only too clearly. The only hope we have today of true deficit reduction is to adopt the Republican alternative and reform the budget process. Since the Democrats have prevented us from doing that today, we should kill their tax-and-spend proposal and force them to consider our alternative plan. Otherwise, the deficit will continue to grow, the economy will sink into recession, and next year House Republicans will be coming to the floor saying "I told you so." I can tell you now those words will be a hollow victory.

Mr. SYNAR. Mr. Chairman, this budget decision is a recognition by Congress that we have crossed the last bridge of easy answers. This bridge must be crossed in order to get to the solutions that have eluded us for way too long. Once this bridge is crossed, Members can begin the process of correcting the mistakes of the Reagan era which permitted the wealthier to be undertaxed; and which saw an excessive growth in defense spending leading to the present budget crisis. My support of this bill has not been an easy decision.

I voted against the budget summit agreement on October 4 and voted for the revised budget on October 7, with the expectation that a fair agreement could be devised. I believed there had to be four elements to be fair. First, it had to protect poor elderly Americans from unfairly high Medicare premiums and annual deductible amounts. There had to be provisions under Medicare that did not simply shift costs to beneficiaries who can not afford to pay. Second, the revenues raised had to recognize that working Americans and the middle class, have borne a disproportionate share of the cost of Government over the past 10 years. Third, the tax bubble had to be eliminated so that the richest Americans would not pay less of a share of taxes than middle income and working taxpayers. Fourth, the burden of deficit reduction had to be shared.

For the past week, I have participated in the process and listened to the comments and suggestions of my Oklahoma constituents. There are competing interests in this debate and I made my decision on the basis of whether the budget met my stated criteria but more importantly on the basis of whether it is fair.

There are provisions I like in the budget and there are sections for which I would not vote if these were included in separate legislation. On the plus side, the Democratic alternative clearly begins to reverse the regressive tax structure of the past decade which has allowed the richest Americans to avoid their fair share of taxes. Contrary to the Republican alternative, the agreement does not rely heavily on hidden taxes which are thinly disguised as user fees for Government services.

The bill does contain a minimal increase in Medicare premiums, however, these have been fairly distributed. In fiscal year 1991, the increase is the same as expected under present law and will mean only an increase of $1.30 per month. The deductible is raised only $25 for all 5 years to $100.

Included in the package are certain budget process reforms. Some of these are good in that the Social Security surplus can not be counted as reducing the deficit and a pay-as-you-go system is adopted for future spending. The down side is that the reforms take more responsibility for budget decisions away from Congress and thus further away from the American taxpayer.

There is actual deficit reduction in the package, not sham techniques. The actual reductions over 5 years are significantly more than that proposed by the Republicans. This is the first reduction I have seen in my tenure. I am convinced it will assist in stimulating the economy and provide for growth.

I have a responsibility to ensure that Government takes care of the needy and develops a sound infrastructure for the future. This bill begins the move toward those goals.

spirit and the letter of its reconciliation instructions. I ask the members to support these provisions and support the passage of H.R. 5835.

Mr. RAHALL. Mr. Chairman, I am very reluctant to vote for this resolution. I will, of course, reserve judgment on the conference report. Earlier I voted No on the Rule, and I did so because it excluded consideration of the so-called Republican substitute on the budget, which would, if considered, have given those of us who are unalterably opposed to raising taxes, a chance to vote on a budget that does not raise them.

What would I do instead of raising taxes? I would probably not design a budget such as that designed by the Republicans. I certainly would not inflict the pain of deficit reduction on handicapped children, or the frail elderly who depend on Medicare and Social Security.

But I would reduce the deficit and balance the budget over 5 years, as has been stated here before by myself and others, simply by reducing defense spending, cutting NATO support, and reducing foreign and international aid.

I would do the above, and by so doing achieve what both the Democrats and the President want, without raising a single tax on anyone.

While I appreciate the work done by the Ways and Means Committee in bringing down the cost to senior citizens on Medicare, and the fact that no gasoline or petroleum taxes are being imposed under their alternative budget, and most certainly for taxing the rich, there are serious, in my opinion, cuts in veterans' pensions and health benefits, and in student loans.

The budget package, even without taxes, does grave damage to domestic programs here at home, and will cause panic and upheaval in many lives before we are through with it in 5 years time.

Mr. Chairman, there is nothing wrong with this process except that which brought us to this process in the beginning—and that is the Gramm-Rudman-Hollings Act which should, in my opinion, be repealed. No one abides by it. We waive its requirements and jurisdictions here at the drop of a hat. We use it to suit our immediate needs to get off the hook whenever that need arises.

Yet when crunch-time comes—and I blame the President directly for the 5-month delay in this reconciliation process since the May 1st adoption of a Budget Resolution by this House—everyone lets Gramm-Rudman rise up as a monster more horrifying than we could have ever conjured up as children, playing in the dark—and we let it scare us into closing down Government, and locking the doors of our Nation's historic sites to the disappointment of children, and we threaten to furlough Federal workers, cut child nutrition, and education for the handicapped, and to cut rehabilitation for the disabled, and reduce or severely curtail veterans' program benefits. That is what we have been doing in the years since enactment of Gramm-Latta I and Gramm-Latta II in Reagan's heyday, and we are now letting the successor, Gramm-Rudman-Hollings, play the monster, and give us an excuse to do just what we are doing—raising taxes in order to reduce the deficit.

The Democrats didn't create this deficit—no Democrat has served in the White House while the deficit doubled, tripled and quadrupled itself into the critical mass it has become today. Democrats tried, have tried, to keep the deficit down, by sending Presidents over the last decade annual appropriations bills that were far below the amounts requested by Presidents in the White House. And we did it at great sacrifice of domestic programs for the elderly, for educationally deprived children, for the economic welfare of our States and localities back home—all because of Mr. Reagan's voodoo economics to blithely cut taxes, while approving the most massive, peacetime defense buildup ever known to man. In order to build that nuclear, pie-in-the-sky, arsenal of planes that won't fly and Star Wars and Brilliant Pebbles, while at the same time keeping spending below the President's own request, the Congress cut education, cut spending on health care for all Americans, watched economic development opportunities go out the window—for 10 long years.

During these past 10 years, we couldn't get full funding for Head Start, or WIC for women, infants and children, or job training for displaced workers.

Increases for child care or for chapter 1 remedial education for young children? Forget it. We barely hung onto EDA and ARC funding, under a Presidential decree that these programs be zeroed out of existence.

In the past 2 years, we have failed to provide catastrophic health care fo the elderly, and under the new rules in this package, we bind the hands of appropriators and ourselves for 5 long years, during which time we will be unable to even consider the need for health care for 37 million Americans who have access to absolutely no medical care at all. And lest we forget, one out of every 5 of those 37 million Americans without heath care are children—children often conceived and reared in such dire poverty throughout these United States, not just Appalachia, that they've never had three nourishing meals a day, a decent home, decent or warm clothing, or care from a doctor or a dentist. Children don't go to the polls and vote—and they have no voice unless it is ours raised in their behalf.

For 10 years Democrats have tried to do two things. Work with Republican administrations, support the President of all the prople as often as possible, and to keep down spending as evidenced by the appropriations bills sent to the White House for signature over that decade that were less in dollar amounts than the White House demanded.

We have seen ourselves castigated, as Democrats, as incumbents, for the sins of others—namely those in charge of the White House, for too long.

Dr. Feelgood doesn't live there any more, but we do have a President who said "read my lips," and when that didn't work, made a joke of the economically perilous times we are currently in by saying "read my hips." I don't think the people of West Virginia found it very funny.

And during these past 2 weeks, when exhaustive efforts have been made by all involved to come up with something fair—just plain, old simple fairness in terms of a budget—the President has been off campaigning for his friends, and when he isn't doing that, he apparently is sitting in the War Room contemplating foreign policy. He certainly bowled me over the other day when he admitted he preferred making foreign policy, to making domestic policy. And that policy certainly has been embraced by his Secretary of Defense who recently stated that it was delightful having the Congress out on recess when Iraq invaded Kuwait. Does this mean war? Is there a method to this madness? Do we dare finish this budget and go home, leaving Bush and Cheney in charge? Do we dare leave them in charge, if we adopt this budget package today?

It's a 5-year package, Mr. Chairman. Is that why Desert Shield, for which I gave the President my support, is separate and apart from the rest of the budget? So that no matter what happens in the next 5 years, if the President wants war in the Persian Gulf, he can unilaterally declare one all by himself, and get funding for it to boot?

I am a Democrat, and I am told by the Republican Members of this body that since we control the Congress, everything bad that has happened is our fault. Well, the President has vetoed and been sustained 14 times on major legislation during this Congress alone and I say, it's a two-way street Mr. President. Read the Constitution.

My people in West Virginia have been taxed to the absolute extent of their ability to pay. Thousands are out of work; thousands more have left their beloved State and gone elsewhere for work, for they no longer possess the dignity that goes with a paycheck and the good feeling that comes from putting a meal on the table for their children, or warm clothing on their backs.

Most of the Members speaking on the floor today have stated how difficult this decision is. But they believe, most of them, that America is watching the debate, and looking for strength in us, to bite the bullet and to reduce this runaway deficit, no matter how we have to do it. I hope they are right.

Mr. KLECZKA. Mr. Chairman, today the House considers H.R. 5835, the Omnibus Budget Reconciliation Act of 1990. This bill is the revised version of the $500 billion deficit reduction package negotiated by Congress and the President.

While it requires that we bite the bullet and put our fiscal house in order, it does so in a less harsh manner than the failed summit agreement. I voted against the summit agreement October 4. This reconciliation bill is not perfect, but it is the best compromise we can hope for given the size of our task.

Specifically, the reconciliation bill addresses one of my chief concerns—the large and unfair Medicare cuts on the elderly. Under the summit agreement, these cuts would have been $60 billion, which was half of all domestic cuts.

The reconciliation bill reduces the out-of-pocket costs shouldered by the elderly by two-thirds. The deductible will increase only $100, rather than the $150 deductible contained in the failed agreement. Furthermore, the increase in the part B premium will be lower and slower than in the summit agreement.

Other inequities are corrected in this reconciliation bill. The 2-cent tax on heating oil is removed, as is the 2-week delay for receiving unemployment benefits.

This bill drops the 12-cent increase in the gasoline tax. It drops $4 billion in tax breaks for oil and gas companies provided by the summit agreement. It also drops the "growth incentives" proposed by the President—which only serve as wasteful tax shelters for the wealthy.

In reference to fairness of this budget bill and its impact on the taxpayers, H.R. 5835 makes improvements for the middle class and asks the wealthy to chip in more of their share.

The failed summit agreement would have increased taxes for those earning between $20,000 and $50,000 by 3 percent to 3.5 percent. The reconciliation bill will only increase the added tax burden by 1 percent.

As for wealthy taxpayers earning over $200,000, the summit pact would have only increased taxes by 0.3 percent. The reconciliation bill increases this to 7.4 percent. These taxpayers will pay their fair share in this budget reconciliation act.

Other budget process reforms are included in the bill. These include requirements that future revenue or spending legislation be made budget-neutral, that is, we will have pay-as-you-go procedures. In addition, the bill will remove the Social Security surplus from budget calculations. This practice has masked the true size of the Federal deficit.

Mr. Chairman, its high time we start putting our mountain of debt behind us. We owe it to the taxpayers. This 5-year, $500 billion deficit reduction measure will require sacrifices from all of us, but it is a credible plan to steer us back toward long-term economic stability. I urge my colleagues to support the budget reconciliation act.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered as read. The amendments printed in part 1 of House Report 101-882 are adopted in the Committee of the Whole and in the House.

The text of the bill, H.R. 5835, as modified, is as follows:

H.R. 5835

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1990".

SEC. 2. TABLE OF TITLES.

TITLE I—COMMITTEE ON AGRICULTURE

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Subtitle A—Commodity Programs

SEC. 1101. TRIPLE BASE FOR DEFICIENCY PAYMENTS.

(a) IN GENERAL.—The Secretary of Agriculture (hereafter in this title referred to as the "Secretary", unless the context otherwise requires), in making available to producers deficiency payments otherwise authorized by law for each of the 1992 through 1995 crops of wheat, feed grains, upland cotton, and rice, shall compute the amount of such payments by multiplying—

(1) the payment rate; by

(2) the payment acres for the crop (as determined under subsection (b)); by

(3) the farm program payment yield for the crop for the farm.

(b) PAYMENT ACRES.—For purposes of subsection (a)(2), payment acres for a crop shall be—

(1) the number of acres planted to the crop for harvest within the number of acres obtained by multiplying—

(A) the crop acreage base for the crop for the farm; by

(B) the base reduction percentage (as determined under subsection (c)); less

(2) the quantity of reduced acreage (as determined under subsection (d)(1)).

(c) BASE REDUCTION PERCENTAGE.—For purposes of subsection (b)(1)(B), the base reduction percentage shall be—

(1) in the case of each of the 1992 and 1993 crops, 85 percent;

(2) in the case of the 1994 crop, 80 percent; and

(3) in the case of the 1995 crop, 75 percent.

(d) REDUCED AND PERMITTED ACREAGE.—

(1) REDUCED ACREAGE.—For purposes of subsection (b)(2), the quantity of reduced acreage for a crop shall be the number of acres devoted to conservation uses that is determined by multiplying—

(A) the crop acreage base; by

(B) the percentage reduction required by the Secretary under an acreage limitation program announced by the Secretary.

(2) PERMITTED ACREAGE.—The remaining acreage is hereafter in this section referred to as "permitted acreage".

(e) PLANTING COMMODITIES ON PERMITTED ACREAGE.—The Secretary shall permit producers on a farm to plant on permitted acreage for which the producers do not receive deficiency payments—

(1) program crops (wheat, feed grains, cotton, or rice);

(2) oilseeds (soybeans, sunflower, canola, rapeseed, safflower, flaxseed, mustard seed, or any other oilseeds the Secretary may designate);

(3) sweet sorghum, popcorn, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, guayule, milkweed, mung bean, meadowfoam, jojoba, or kenaf;

(4) commodities grown for experimental purposes, as determined by the Secretary;

(5) commodities for which no substantial domestic production or market exists, as determined by the Secretary; or

(6) any experimental crop, including annual herbaceous, or short-rotation woody crops, the production of which the Secretary determines is necessary to meet demand or anticipated demand for ethanol or other biofuels production.

(f) LOAN ELIGIBILITY.—

(1) PROGRAM CROPS.—Producers on a farm who devote permitted acreage (for which the producers do not receive deficiency payments) to program crops described in subsection (e)(1) shall be eligible for loans under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) with respect to the acreage.

(2) OILSEEDS.—Producers on a farm who devoted permitted acreage (for which the producers do not receive deficiency payments) to oilseeds described in subsection (e)(2) shall not be eligible for loans under such Act with respect to the acreage.

SEC. 1102. CALCULATION OF DEFICIENCY PAYMENTS BASED ON 12-MONTH AVERAGE.

For purposes of calculating deficiency payments for each of the 1991 through 1995 crops of wheat, feed grains, and rice, the payment rate for a crop shall be the amount by which the established price for the crop exceeds—

(1) in the case of wheat and feed grains, the higher of—

(A) the lesser of—

(i) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

(ii) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel; or

(B) the loan level determined for the crop; and

(2) in the case of rice, the higher of—

(A) the national average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

(B) the loan level determined for the crop.

SEC. 1103. ACREAGE REDUCTION PROGRAM FOR 1991 CROP OF WHEAT.

As soon as practicable after the date of enactment of this section, the Secretary shall announce an acreage limitation program for the 1991 crop of wheat under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by 15 percent.

SEC. 1104. ACREAGE REDUCTION PROGRAMS FOR 1992 THROUGH 1995 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall announce an acreage limitation program for each of the 1992 through 1995 crops of—

(1) wheat under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by—

(A) in the case of the 1992 crop of wheat, not less than 6 percent;

(B) in the case of the 1993 crop of wheat, not less than 5 percent;

(C) in the case of the 1994 crop of wheat, not less than 7 percent; and

(D) in the case of the 1995 crop of wheat, not less than 5 percent;

(2) corn, grain sorghum, barley, and oats under which the acreage planted to the respective feed grain for harvest on a farm would be limited to the respective feed grain crop acreage base for the farm for the crop reduced by not less than 7½ percent;

(3) upland cotton under which the acreage planted to upland cotton for harvest on a farm would be limited to the upland cotton crop acreage base for the farm for the crop reduced by—

(A) in the case of the 1992 crop of upland cotton, not less than 15 percent; and

(B) in the case of each of the 1993, 1994, and 1995 crops of upland cotton, not less than 20 percent; and

(4) rice under which the acreage planted to rice for harvest on a farm would be limited to the rice crop acreage base for the farm for the crop reduced by—

(A) in the case of the 1992 crop of rice, not less than 18½ percent;

(B) in the case of the 1993 crop of rice, not less than 15 percent;

(C) in the case of the 1994 crop of rice, not less than 14 percent; and

(D) in the case of the 1995 crop of rice, not less than 10 percent.

(b) STOCKS-TO-USE RATIO.—Notwithstanding any other provision of law, subsection (a) shall not apply to a crop if the Secretary estimates for such crop that the stocks-to-use ratio will be less than—

(1) in the case of wheat, 34 percent;

(2) in the case of corn, grain sorghum, and barley, 20 percent;

(3) in the case of upland cotton, 30 percent; and

(4) in the case of rice, 16 percent.

SEC. 1105. SOYBEAN MARKETING LOAN.

(a) IN GENERAL.—In providing loans for soybeans otherwise authorized by law, the

Secretary shall support the price of soybeans in each of the 1991 through 1995 marketing years at a level of not less than $5.25 per bushel.

(b) LOAN ORIGINATION FEES.—

(1) IN GENERAL.—The Secretary shall charge a producer a loan origination fee, in connection with making a loan under subsection (a), equal to not more 7 percent of the amount of the loan.

(2) LOAN DEFICIENCY PAYMENTS.—If the Secretary charges a loan origination fee for loans made for a crop of soybeans under paragraph (1) and makes loan deficiency payments for the crop, the Secretary shall reduce the amount of any such loan deficiency payment by an amount equal to the amount of the loan origination fee.

(c) EFFECTIVE LOAN RATE.—Notwithstanding any other provision of this section, the effective loan rate for a crop of soybeans (calculated as the loan level for the crop less any loan origination fees) under this section shall not be more than $4.87 per bushel.

SEC. 1106. LOAN ORIGINATION AND PROGRAM SERVICE FEES.

(a) SUGAR, HONEY, PEANUTS, AND TOBACCO.—Effective for each of the 1991 through 1995 crops of sugarcane, sugar beets, honey, peanuts, and tobacco, the Secretary shall charge the producer a loan origination fee for a price support loan for such crops equal to not more 3 percent of the amount of the loan. The Secretary shall ensure that fees imposed for a loan for a crop of peanuts or tobacco under this subsection shall be shared equally between producers and purchasers.

(b) WOOL.—Effective for each of the 1991 through 1995 marketing years for wool and mohair, in connection with making price support available for such marketing years, the Secretary may charge producers of wool and mohair a program service fee equal to not more 1 percent of the amount of payments made under the National Wool Act of 1954 (7 U.S.C. 1781 et seq.) for wool and mohair for such marketing year.

SEC. 1107. PROVEN YIELDS FOR 1991 THROUGH 1995 CROPS OF FEED GRAINS.

Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary shall not calculate farm program payment yields on the basis of actual yields of feed grains, as provided in section 505(a) of the Agricultural Act of 1949 (as amended by section 1131 of S. 2830 (as passed by the House of Representatives on August 3, 1990)).

SEC. 1108. END ROWS TO MEET ACREAGE REDUCTION REQUIREMENTS.

Notwithstanding any other provision of law, producers shall not be allowed to meet acreage limitation or set-aside requirements by idling end rows, as provided in section 1122 of S. 2830 (as passed by the House of Representatives on August 3, 1990).

SEC. 1109. SURFACE RESERVOIR ENCOURAGEMENT PROGRAM AND OTHER SAVINGS.

(a) SURFACE RESERVOIR.—The Secretary shall not establish a program to encourage surface reservoirs, as provided in subtitle C of title XI of S. 2830 (as passed by the House of Representatives on August 3, 1990).

(b) OTHER SAVINGS.—Section 201(d)(2)(B) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(B)) is amended—

(1) in clause (i), by striking "the period beginning on April 1, 1986, and ending on December 31, 1986, 40 cents" and inserting "during calendar year 1991, 5 cents"; and

(2) in clause (ii), by striking "first 9 months of 1987, 25 cents" and inserting "calendar years 1992 through 1995, 11.25

Subtitle B—Other Agricultural Programs

SEC. 1201. AUTHORIZATION LEVELS FOR REA LOANS.

(a) IN GENERAL.—Subject to the other provisions of this section and notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, loans may be insured in accordance with the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) from the Rural Electrification and Telephone Revolving Fund established under section 301 of such Act (7 U.S.C. 931) in amounts equal to the following levels:

(1) For fiscal year 1991, $996,000,000.
(2) For fiscal year 1992, $932,000,000.
(3) For fiscal year 1993, $969,000,000.
(4) For fiscal year 1994, $1,008,000,000.
(5) For fiscal year 1995, $1,048,000,000.

(b) REDUCTION.—Notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, the Administrator of the Rural Electrification Administration shall reduce the amounts otherwise made available for insured loans made from the Rural Electrification and Telephone Revolving Fund by—

(1) $224,000,000 for fiscal year 1991;
(2) $234,000,000 for fiscal year 1992;
(3) $244,000,000 for fiscal year 1993;
(4) $256,000,000 for fiscal year 1994; and
(5) $267,000,000 for fiscal year 1995.

(c) MANDATORY LEVELS.—Notwithstanding any other provision of law, the Administrator shall insure loans at the levels authorized by this section for each of fiscal years 1991 through 1995.

(d) GUARANTEED LOANS.—Notwithstanding any other provision of law, in carrying out the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Administrator shall increase the amounts otherwise made available to guarantee loans made by legally organized lending agencies. The loans shall be guaranteed at 90 percent of the principal amount of the loan.

SEC. 1202. AUTHORIZATION LEVELS FOR FmHA LOANS.

(a) IN GENERAL.—Subject to the other provisions of this section and notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, real estate and operating loans may be insured, made to be sold and insured, or guaranteed in accordance with subtitles A and B, respectively, of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) from the Agricultural Credit Insurance Fund established under section 309 of such Act (7 U.S.C. 1929) in amounts equal to the following levels:

(1) For fiscal year 1991, $4,175,000,000, of which not less than $827,000,000 shall be for farm ownership loans under subtitle A of such Act.

(2) For fiscal year 1992, $4,343,000,000, of which not less than $861,000,000 shall be for farm ownership loans under subtitle A of such Act.

(3) For fiscal year 1993, $4,516,000,000, of which not less than $895,000,000 shall be for farm ownership loans under subtitle A of such Act.

(4) For fiscal year 1994, $4,697,000,000, of which not less than $931,000,000 shall be for farm ownership loans under subtitle A of such Act.

(5) For fiscal year 1995, $4,885,000,000, of which not less than $968,000,000 shall be for farm ownership loans under subtitle A of such Act.

(b) APPORTIONMENT OF INSURED AND GUARANTEED LOANS.—Subject to subsection (c), the amounts set forth in subsection (a) shall be apportioned as follows:

(1) For fiscal year 1991—

(A) $1,019,000,000 for insured loans, of which not less than $83,000,000 shall be for farm ownership loans; and

(B) $3,156,000,000 for guaranteed loans, of which not less than $744,000,000 shall be for guarantees of farm ownership loans.

(2) For fiscal year 1992—

(A) $1,060,000,000 for insured loans, of which not less than $87,000,000 shall be for farm ownership loans; and

(B) $3,283,000,000 for guaranteed loans, of which not less than $774,000,000 shall be for guarantees of farm ownership loans.

(3) For fiscal year 1993—

(A) $1,102,000,000 for insured loans, of which not less than $90,000,000 shall be for farm ownership loans; and

(B) $3,414,000,000 for guaranteed loans, of which not less than $805,000,000 shall be for guarantees of farm ownership loans.

(4) For fiscal year 1994—

(A) $1,147,000,000 for insured loans, of which not less than $94,000,000 shall be for farm ownership loans; and

(B) $3,550,000,000 for guaranteed loans, of which not less than $837,000,000 shall be for guarantees of farm ownership loans.

(5) For fiscal year 1995—

(A) $1,192,000,000 for insured loans, of which not less than $97,000,000 shall be for farm ownership loans; and

(B) $3,693,000,000 for guaranteed loans, of which not less than $871,000,000 shall be for guarantees of farm ownership loans.

(c) TRANSFER OF FUNDS FROM INSURED TO GUARANTEED LOANS.—Notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, the Secretary shall—

(1) reduce the amounts otherwise made available for insured loans made from the Agricultural Credit Insurance Fund by—

(A) $432,000,000 for fiscal year 1991;
(B) $564,000,000 for fiscal year 1992;
(C) $710,000,000 for fiscal year 1993;
(D) $809,000,000 for fiscal year 1994; and
(E) $857,000,000 for fiscal year 1995; and

(2) use the funds made available from the reduction made in paragraph (1) in the available amount of insured loans in each of the fiscal years to guarantee loans made from the Fund.

(c) MANDATORY LEVELS.—Notwithstanding any other provision of law, the Secretary shall make or insure loans at the levels authorized by this section for each of fiscal years 1991 through 1995.

SEC. 1203. APHIS INSPECTION USER FEE ON INTERNATIONAL PASSENGERS.

(a) IN GENERAL.—The Secretary may prescribe and collect fees to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger.

(b) TREASURY.—Any person who collects a fee under this section shall remit the fee to the Treasury of the United States prior to the date that is 31 days after the close of the calendar quarter in which the fee is collected.

(c) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a no-year fund, to be known as the "Agricultural Quarantine Inspection User Fee Account" (hereafter in this section referred to as the "Account"), for the use of the Secretary of Agriculture for quarantine or inspection services under this section.

(2) AMOUNTS IN ACCOUNT.—

(A) DEPOSITS.—All fees collected under this subsection shall be deposited in the Account.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated

amounts in the Fund for use by the Secretary of Agriculture for quarantine or inspection services.

(d) ADJUSTMENT IN FEE AMOUNTS.—The Secretary shall adjust the amount of the fees to be assessed under this section to reflect the cost to the Secretary in—

(1) administering this section;

(2) carrying out the activities at ports in the customs territory of the United States and preclearance and preinspection sites outside the customs territory of the United States in connection with the provision of agricultural quarantine inspection services; and

(3) maintaining a reasonable balance in the Account.

SEC. 1204. MARKET PROMOTION PROGRAM.

Notwithstanding any other provision of law, the Commodity Credit Corporation shall not make available assistance to carry out the market promotion program established under section 202 of the Agricultural Trade Act of 1978 (as amended by section 1221(a) of S. 2830 (as passed by the House of Representatives on August 3, 1990)) at a level in excess of $200,000,000 for each of the fiscal years 1991 through 1995.

SEC. 1205. INTEGRATED FARM MANAGEMENT PROGRAM OPTION.

Notwithstanding any other provision of law, the Secretary shall only make such fair and equitable adjustments as the Secretary determines are appropriate in acreage limitation or set-aside requirements applicable to producers participating in the integrated farm management program option established under section 1611 of S. 2830 (as passed by the House of Representatives on August 3, 1990).

SEC. 1206. OTHER RURAL DEVELOPMENT PROGRAMS.

(a) PROHIBITION ON IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary shall not expend any funds to implement the provisions of title XXV of S. 2830 (as passed by the House of Representatives on August 3, 1990).

(b) APPROPRIATIONS.—Notwithstanding any other provision of law, titles XIX, XX, XXI, XXII, XXIII, XXIV, XXVI, XXVII, and XXVIII of S. 2830 (as passed by the House of Representatives on August 3, 1990), and the amendments made by such titles, shall be carried out only as provided in advance in appropriations Acts.

Subtitle C—Food Stamp and Related Provisions

SEC. 1301. FOOD STAMP PROGRAM.

(a) ALLOCATION FOR JOB TRAINING PROGRAM.—Effective October 1, 1990, paragraph (1) of section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended to read as follows:

"(1) The Secretary shall allocate among the State agencies in each fiscal year, from funds appropriated for such fiscal year under section 18(a)(1), the amount of $75,000,000 for each of the fiscal years 1991 through 1995 to carry out the employment and training program under section 6(d)(4), except as provided in paragraph (3), during the fiscal year.".

(b) EXTENSION OF PILOT PROJECTS.—Section 17(b)(1) of such Act (7 U.S.C. 2026(b)(1)) is amended by striking "1990" and inserting "1995".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of such Act (7 U.S.C. 2027(a)(1)) is amended by striking the first two sentences and inserting the following new sentence: "To carry out this Act, there are authorized to be appropriated such sums as are necessary for each of fiscal years 1991 through 1995.".

(d) BLOCK GRANT TO PUERTO RICO.—Effective October 1, 1990, section 19(a)(1)(A) of such Act (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$625,000,000" and all that follows through "September 30, 1990" and inserting "$974,000,000 for fiscal year 1991, $1,013,000,000 for fiscal year 1992, $1,051,000,000 for fiscal year 1993, $1,091,000,000 for fiscal year 1994, and $1,133,000,000 for fiscal year 1995".

SEC. 1302. COMMODITY DISTRIBUTION AND SUPPLEMENTAL FOOD PROGRAMS.

Effective October 1, 1990, the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended—

(1) in section 4(a), by striking "1986, 1987, 1988, 1989, and 1990" and inserting "1991 through 1995"; and

(2) in section 5(a)(2), by striking "1986 through 1990" and inserting "1991 through 1995".

SEC. 1303. DISTRIBUTION OF SURPLUS COMMODITIES TO SPECIAL NUTRITION PROJECTS; PROCESSING AGREEMENTS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)(A)) is amended by striking "1990" and inserting "1995".

SEC. 1304. TEFAP REAUTHORIZATIONS.

The Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended—

(1) effective October 1, 1990, in section 204—

(A) by striking subsections (a) and (b);

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(C) in subsection (a)(1) (as so redesignated), by striking "ending September 30, 1986, through September 30, 1990," and inserting "1991 through 1995"; and

(2) in section 212, by striking "1990" and inserting "1995".

SEC. 1305. NUTRITION EDUCATION AUTHORIZATION.

Section 1588(a) of the Food Security Act of 1985 (7 U.S.C. 3175e) is amended by striking "$5,000,000" and all that follows through the period at the end and inserting "$8,000,000 for each of the fiscal years 1991 through 1995.".

Subtitle D—Agriculture Committee Oversight of Credit

SEC. 1401. CREDIT ACTIVITIES OF GOVERNMENT AGENCIES AND INSTRUMENTALITIES.

(a) IN GENERAL.—Any provision of this Act and any amendment made by this Act to chapter 31 of title 31, United States Code, or any other provision of law, that would have the effect of restricting the authority of any corporation owned in whole or in part by the Federal Government (such as the Commodity Credit Corporation, the Federal Crop Insurance Corporation, or the Farm Credit System Assistance Board, or any privately owned Government-sponsored entity, such as a Farm Credit Bank, the Federal Bank for Cooperatives, or the Federal Agricultural Mortgage Corporation) from borrowing from or issuing obligations to any person other than the Secretary of the Treasury or guaranteeing any obligation issued by any person shall not take effect.

(b) CERTAIN ACTION PROHIBITED.—Notwithstanding any other provision of this Act or any amendment made by this Act to any other provision of law, no officer or employee of the United States may take any action that would have the effect of implementing any provision of, or any amendment made by, this Act that is described in subsection (a).

(c) PENALTY.—Any person violating this section shall, on conviction, be subject to a fine of not more than $10,000 or to imprisonment for not more than 1 year, or both, and (if an officer or employee of the Federal Government) shall be removed from office.

SEC. 1402. REPORT ON FARM CREDIT AND THE ISSUANCE OF RELATED NOTES AND THE REDEMPTION THEREOF.

(a) REPORT REQUIRED.—In order to assist the Committee on Agriculture of the House of Representatives in its oversight of, and legislative activities with respect to, farm credit and the issuance of related notes and the redemption thereof, and to reduce the costs associated with credit activities and the issuance and redemption of notes, the Secretary of the Treasury shall submit an annual report to the Committee on Agriculture of the House of Representatives on the credit activities of the Secretary and the policies of the Secretary with respect to the issuance and redemption of notes.

(b) CONTENTS OF REPORT.—The annual report required to be made by the Secretary of the Treasury under subsection (a) shall—

(1) describe the policies with respect to the credit activities of the Department of the Treasury and their effect on availability and affordability of farm credit;

(2) describe the policies of the Secretary and the Department with respect to the issuance and redemption of notes and the effect of such policies on the availability, and affordability and delivery of farm credit;

(3) contain a report on the amount of the costs, as determined by the Secretary, of such credit activities and the issuance and redemption of notes;

(4) identify actions taken by the Secretary to reduce costs associated with such credit activities and the issuance and redemption of notes during the period covered by such report with special emphasis on the effect of such actions on the availability and affordability of farm credit; and

(5) any recommendations for legislative action which would reduce the costs associated with the credit activities of the Department of the Treasury and the issuance and redemption of notes with special emphasis as they relate to the availability, affordability, and delivery of farm credit.

(c) ANALYSIS OF EFFECT ON PRIVATE CREDIT ACTIVITIES.—The annual report required to be made by the Secretary of the Treasury under subsection (a) shall contain an analysis of the effect of—

(1) government credit activities; and

(2) government policies with respect to the issuance and redemption of notes,

on private farm credit activities.

(d) METHODOLOGY FOR REPORTING ON DETERMINATIONS OF COST.—

(1) IN GENERAL.—In determining the cost of, and in identifying methods for reducing the cost of, credit activities and the issuance and redemption of notes and their effect on farm credit, the Secretary of the Treasury shall quantify the cost associated with each type of credit activity and note.

(2) FACTORS TO BE TAKEN INTO ACCOUNT.—In quantifying the costs involved with each type of credit activity and note pursuant to paragraph (1), the Secretary of the Treasury shall determine—

(A) the volume of each type of credit activity and note; and

(B) the costs involved with each type of credit activity and the issuance and redemption of each type of note with respect to any relevant factor, including—

(i) credit cost;

(ii) interest cost;

(iii) management and operational costs; and

(iv) expenses incurred in connection with the issuance and redemption of notes.

(e) DEFINITIONS.—For purposes of this section:

(1) CREDIT ACTIVITY.—The term "credit activity" includes any borrowing or lending ac-

tivity and any extension of credit by or to any person or governmental entity, including the issuance of notes in connection with such activity.

(2) NOTE.—The term "note" includes any obligation, including any bill, bond, or other instrument, issued in connection with any credit activity.

SEC. 1403. EFFECT OF CHANGES IN GOVERNMENT POLICY ON FARM CREDIT, AND AGRICULTURE.

(a) REPORTS REQUIRED.—The Comptroller General of the United States and the Secretary of the Treasury shall each submit an annual report to the Committee on Agriculture of the United States House of Representatives on the effect of changes in Federal tax and revenue laws on—

(1) the cost and availability of farm credit;

(2) agriculture generally;

(3) agricultural production and marketing and stabilization of prices of agricultural products and commodities;

(4) the financial condition of banks extending farm credit;

(5) the animal and dairy industries;

(6) the forestry industry; and

(7) rural electrification and rural development.

(b) RECOMMENDATION.—Each report required under subsection (a) shall also contain the recommendations of the Comptroller General and the Secretary of the Treasury or changes in law or government policy to reduce Federal spending with special emphasis on potential savings that may be achieved in the operation and administration of the Department of the Treasury in order to enhance the activities described in subsection (a) (1), (2), (3), (4), (5), (6), and (7), and address the effect of the changes in tax and revenue laws of the subjects described in subsection (a).

(c) EFFECT OF CHANGES IN TAX LAWS ON CREDIT FACILITIES AND ACTIVITIES.—The first reports required under subsection (a) shall contain an analysis of the effect of changes in tax law during the period 1980 to 1990 and recommendations for changes in law or government policy to address the effect of the changes in tax and revenue laws during the period from 1980 to 1990 on the subjects described in subsection (a) and each subsequent report shall analyze the effect of changes in tax and revenue law during the immediately preceding year and contain recommendations to respond to changes in tax and revenue law during the immediately preceding year.

(d) TIMING OF REPORTS.—The first reports by the Comptroller General and the Secretary of the Treasury pursuant to subsection (a) shall be submitted no later than July 1, 1991, and each subsequent report shall be submitted no later than February 1 of each subsequent year.

Subtitle E—Contingent Termination Date

SEC. 1501. CONTINGENT TERMINATION DATE.

Notwithstanding any other provision of this title, this title (other than subtitle D of this title) and the amendments made by this title shall cease to be effective on July 1, 1992, if legislation to implement an agreement of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) for international agricultural trade is not enacted on or before June 30, 1992.

TITLE II—COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Subtitle A—Federal Deposit Insurance Premiums

SEC. 2001. ELIMINATION OF CEILINGS ON INSURANCE PREMIUMS AND ANNUAL PREMIUM INCREASES.

(a) BANK INSURANCE FUND.—Clause (iv) of section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended by striking "and capitalization, except that—" and all that follows through the end of such clause and inserting "and capitalization; and".

(b) SAVINGS ASSOCIATION INSURANCE FUND.—Clause (v) of section 7(b)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(D)) is amended by striking "and capitalization, except that—" and all that follows through the end of such clause and inserting "and capitalization; and".

SEC. 2002. FDIC AUTHORITY TO ADJUST ASSESSMENT RATES MORE FREQUENTLY THAN ANNUALLY.

(a) BANK INSURANCE FUND.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended—

(1) by striking clause (i) and inserting the following new clause:

"(i) AUTHORITY TO ESTABLISH RATES.—The Corporation shall set assessment rates for insured depository institutions at such times as the Corporation, in the sole discretion of the Corporation, determines to be appropriate."; and

(2) by striking clause (iii) and inserting the following new clause:

"(iii) ANNOUNCEMENT OF RATE CHANGES.—If the Corporation changes the assessment rate, the Corporation shall provide public notice of such change on or before the beginning of the 60-day period ending on the date such change takes effect.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 7(b)(1)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)(ii)) is amended by striking "annual".

(2) Section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) is amended—

(A) in subparagraph (C)(iv) (as amended by section 2001(a) of this title)—

(i) by striking "on January 1 of a calendar year" and inserting "for any period"; and

(ii) by inserting ", in the sole discretion of such board," after "rate determined by the Board of Directors"; and

(B) in subparagraph (D)(v) (as amended by section 2001(b) of this title)—

(i) by striking "on January 1 of a calendar year" and inserting "for any period"; and

(ii) by inserting ", in the sole discretion of such board," after "rate determined by the Board of Directors".

(3) Section 7(d)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)(A)) is amended—

(A) by striking "By September 30 of each calendar year," and inserting "Before the beginning of the 60-day period ending on the 1st day of each semiannual period,"; and

(B) by striking "the succeeding calendar year" and inserting "such semiannual period".

(4) Section 7(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(2)) is amended—

(A) in subparagraph (A), by striking "in the coming year" and inserting "in the coming semiannual period"; and

(B) in subparagraph (B)—

(i) by striking "succeeding year" each place such term appears and inserting "succeeding semiannual period"; and

(ii) by striking "succeeding calendar year" and inserting "succeeding semiannual period".

(5) Section 7(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(3)) is amended—

(A) in subparagraph (A), by striking "in the coming year" and inserting "in the coming semiannual period"; and

(B) in subparagraph (B)—

(i) by striking "succeeding year" each place such term appears and inserting "succeeding semiannual period"; and

(ii) by striking "succeeding calendar year" and inserting "succeeding semiannual period".

Subtitle B—FHA Mortgage Insurance

SEC. 2101. INCREASE IN MORTGAGE LIMIT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "150 percent (185 percent until October 31, 1990) of the dollar amount specified" and inserting the following: "185 percent of the dollar amount specified".

SEC. 2102. MORTGAGOR EQUITY.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by adding at the end the following new undesignated paragraph:

"Notwithstanding any other provision of this paragraph, a mortgage may not involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, the term 'appraised value' means the amount set forth in the written statement required under section 226, or a similar amount determined by the Secretary if section 226 does not apply.".

SEC. 2103. MORTGAGE INSURANCE PREMIUMS.

(a) PREMIUMS.—Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking the last sentence; and

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

"(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling and insured on or after October 1, 1994, shall be subject to the following requirements:

"(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount equal to 2.25 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph.

"(B) In addition to the premium under subparagraph (A), the Secretary shall establish and collect annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance for the following periods:

"(i) For any mortgage involving an original principal obligation that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

"(ii) For any mortgage involving an original principal obligation that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause shall be in an amount equal to 0.55 percent of the remaining insured principal balance.".

(b) TRANSITION PROVISIONS.—Notwithstanding section 203(c) of the National

Housing Act (as amended by subsection (a)), mortgage insurance premiums on mortgages insured under section 203(b) of such Act during fiscal years 1991 through 1994 shall be subject to the following requirements:

(1) 1991 AND 1992.—For mortgages insured during fiscal years 1991 and 1992 (but after the date of the effectiveness of regulations issued under subsection (c)), the Secretary shall establish and collect the following premiums:

(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount equal to 3.80 percent of the amount of the original insured principal obligation of the mortgage.

(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance, for any mortgage involving an original principal obligation that is—

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 5 years of the mortgage term;

(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 8 years of the mortgage term; and

(iii) greater than 95 percent of such value, for the first 10 years of the mortgage term.

(2) 1993 AND 1994.—For mortgages insured during fiscal years 1993 and 1994, the Secretary shall establish and collect the following premiums:

(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount equal to 3.00 percent of the amount of the original insured principal obligation of the mortgage.

(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance, for any mortgage involving an original principal obligation that is—

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 7 years of the mortgage term;

(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 12 years of the mortgage term; and

(iii) greater than 95 percent of such value, for the first 30 years of the mortgage term.

(3) REFUNDS.—With respect to any mortgage subject to premiums under this subsection, the Secretary shall refund all of the unearned premium charges paid on a mortgage pursuant to paragraph (1)(A) or (2)(A) upon payment in full of the principal obligation of the mortgage prior to the maturity date.

(c) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

SEC. 2104. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(e) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

SEC. 2105. ACTUARIAL SOUNDNESS OF MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsections:

"(f)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this subsection.

"(2) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after the date of the enactment of this subsection, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

"(3) Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

"(4) For purposes of this subsection:

"(A) The term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 538.

"(B) The term 'capital ratio' means the ratio of capital to unamortized insurance-in-force.

"(C) The term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

"(D) The term 'unamortized insurance-in-force' means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

"(g) The Secretary shall provide for an independent actuarial study of the Mutual Mortgage Insurance Fund to be conducted annually and shall report annually to the Congress regarding the financial status of the Fund.

"(h)(1) If, pursuant to the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (g), the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals under paragraph (2), the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 203(c) or section 2103(b) of the Omnibus Budget Reconciliation Act of 1990, or any other program requirements established by the Secretary necessary to achieve such goals. Upon determining that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Any such premium change shall not take effect before the expiration of the 90-day period beginning upon such notification.

"(2) The operational goals referred to in paragraph (1) shall be—

"(A) maintaining an adequate capital ratio;

"(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit; and

"(C) minimizing the risk to the Fund and to homeowners from homeowner default.".

SEC. 2106. PERIODIC MORTGAGE INSURANCE SAFETY AND SOUNDNESS PREMIUM.

Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of law, the Secretary may require payment on all mortgages that are obligations of the Mutual Mortgage Insurance Fund of an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(g). The additional premium charge for each mortgage may not exceed an amount amount equal to 0.50 percent per year of the remaining insured principal balance of the mortgage.".

SEC. 2107. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) TERMINATION DATE.—The first sentence of section 225(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(b) NUMBER OF MORTGAGES INSURED.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is further amended by striking the second sentence and inserting the following new sentence: "The total number of mortgages insured under this section may not exceed 25,000.".

Subtitle C—Auction of Federally Insured Mortgages

SEC. 2201. AUCTION ALTERNATIVE TO ASSIGNMENT OF MORTGAGES.

(a) AUCTION.—Section 221(g)(4) of the National Housing Act (12 U.S.C. 1715l(g)(4)) is amended by adding at the end the following new subparagraph:

"(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the credit instrument under subparagraph (A) in exchange for receipt of debentures, the Secretary may provide for the sale under this subparagraph of the beneficial interests in the mortgage loan through auction and sale of the mortgage loan, participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary, unless the mortgagee can demonstrate to the satisfaction of the Secretary that such auction and sale will be less economically advantageous to the mortgagee than the receipt of debentures. The Secretary shall provide that any beneficial interest auctioned and sold under this subparagraph are sold at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price shall also include the right to a subsidy payment described in clause (viii). The Secretary may, when appropriate, adjust the price paid to the mortgagee to equal the net present value of the debentures that the mortgagee would have received pursuant to assignment under subparagraph (A).

"(ii) The Government National Mortgage Association (in this subparagraph referred to as the 'Association') shall conduct public auctions under this subparagraph on behalf of the Secretary to determine the lowest interest rate necessary to carry out a sale of the beneficial interests in the original credit instrument and mortgage securing the credit instrument.

"(iii) Any mortgagee who elects to assign a mortgage shall provide to the Association and persons bidding at an auction under this subparagraph a description of the characteristics of the original credit instrument and the mortgage securing the credit instrument, which shall include statements of the principal mortgage balance, the original stated interest rate, any service fees, the real estate and tenant characteristics of the property secured by the mortgage, the level and duration of any applicable Federal subsidies, the status of the property with respect to eligibility to prepay the mortgage under to the Emergency Low Income Housing Preservation Act of 1987, whether the

owner has filed a notice of intent to prepay the mortgage under such Act or any other notice required under such Act, any incentives provided under such Act in lieu of prepayment, and any other information determined by the Association to be appropriate.

"(iv) Upon receipt of the information under clause (iii) regarding a mortgage, the Association shall promptly provide notice of any auction with respect to the mortgage and publish such information in advance of the auction. To promote administrative efficiency, the Association may conduct the auction at any time during the 6-month period beginning upon notice by the mortgagee of election to assign the mortgage. Notwithstanding the preceding sentence, the Association may not conduct any auction before the expiration of the 2-month period beginning upon notice and publication under this clause.

"(v) In any auction under this subparagraph, the Association shall accept the lowest interest rate bid for purchase by any bidder determined by the Association to be acceptable. The Association shall cause the bid to be published in the Federal Register. Settlement for the sale of the credit instrument and the mortgage securing the credit instrument shall occur not later than 30 days (not including Saturdays, Sundays, and legal public holidays) after the date of the selection of the accepted bid.

"(vi) If no bids are received or the bids that are received are not accepted by the Association, the mortgagee shall retain all rights under this paragraph to assign the mortgage loan to the Secretary. The Association may determine that a bid is unacceptable if the Association determines that the bid is at a price that would result in costs to the Federal Government exceeding the costs incurred if the mortgage were to be assigned to the Secretary under subparagraph (A).

"(vii) The holder of a mortgage, representative of the holder of a mortgage, and entities affiliated with the holder of the mortgage may not participate in the auction under this subparagraph unless the holder, representative, or affiliate is also providing secondary financing for the project secured by the mortgage for the purpose of (I) resolving the physical and financial needs of the project, or (II) enabling a purchaser to acquire a project that is eligible low income housing (as such term is defined under the Emergency Low Income Housing Preservation Act of 1987) and preserve its use as housing affordable for low- and moderate-income families.

"(viii) In carrying out an auction under this subparagraph, the Secretary shall agree to provide a monthly interest subsidy payment from the General Insurance Fund to the holder of the original credit instrument and the mortgage securing the credit instrument (and any assigns of the holder who are approved by the Secretary). The subsidy payment shall be paid on the first day of each month in an amount equal to the difference between the stated interest due on the mortgage loan (less any servicing fee) and the lowest interest rate necessary to provide for sale of the participation certificate for the remaining unpaid principal balance plus accrued interest on the mortgage loan. Each interest subsidy payment shall be treated by the holder of the mortgage as interest paid on the mortgage. The interest subsidy payment shall be provided until the earlier of—

"(I) the maturity date of the loan;

"(II) prepayment of the mortgage loan; or

"(III) default and full payment of insurance benefits on the mortgage loan by the Secretary.

"(ix) The Secretary, or the Association on behalf of the Secretary, may require that the loans auctioned under this subparagraph be sold together with servicing rights as whole loans if the Secretary determines that the inclusion of servicing rights will further the financial interests of the Federal Government. To further maximize the interest of the Federal Government, the Secretary may also acquire the servicing rights and hold a separate auction of the rights.

"(x) This subparagraph may not be construed to alter, limit, or impair any low income use restrictions applicable to any project under the original regulatory agreement for the project, any revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987, or any other agreement for the provision of Federal assistance to the housing or its tenants. This subparagraph may not be construed to alter the affordability and low income use restrictions agreed to by owners of projects insured with mortgages under this Act.

"(xi) The provisions of this subparagraph shall not apply after September 30, 1995.".

(b) IMPLEMENTATION.—The Secretary shall implement the provisions under the amendment made by subsection (a) not later than 30 days after the date of the enactment of this Act. The provisions shall not be subject to prior issuance of regulations and notice in the Federal Register. The Secretary shall issue regulations to carry out the provisions under the amendment not later than 6 months of the date of the enactment of this Act.

(c) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, regarding any actions taken under section 221(g)(4)(C) of the National Housing Act (as amended by this section). The report shall include information regarding the number of mortgages auctioned and sold and their value, the amount of subsidies committed under this program, the number of mortgages transferred to preferred mortgagees, the ability of the Secretary to coordinate this program with the incentives provided under the Emergency Low Income Housing Preservation Act of 1987, and the costs and benefits derived from this program for the Federal Government.

Subtitle D—Crime and Flood Insurance Programs

SEC. 2301. CRIME INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1201(b) of the National Housing Act (12 U.S.C. 1749bbb(b)) is amended by striking "September 30, 1991" in the matter preceding paragraph (1) and inserting "September 30, 1995".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1) of the National Housing Act (12 U.S.C. 1749bbb(b)(1)) is amended by striking "September 30, 1992" and inserting "September 30, 1996".

(c) EXTENSION OF LIMITATION ON PREMIUMS.—Section 542(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1749bbb-10c note) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

SEC. 2302. FLOOD INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(b) EXTENSION OF EMERGENCY PROGRAM.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(c) EXTENSION OF LIMITATION ON PREMIUMS.—Section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(d) EXTENSION OF EROSION PROVISIONS.—Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(e) INCLUSION OF COSTS IN PREMIUMS.—

(1) ESTIMATES OF PREMIUM RATES.—Section 1307(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)) is amended—

(A) in paragraph (1)(B)(i), by striking "and" at the end;

(B) in paragraph (1)(B)(ii), by inserting "and" after the comma at the end;

(C) in paragraph (1)(B), by inserting at the end the following new clause:

"(iii) any remaining administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360) not included under clause (ii), which shall be recovered by a fee charged to policyholders and such fee shall not be subject to any agents' commissions, company expense allowances, or State or local premium taxes,"; and

(D) in paragraph (2), by inserting after "title" the following: ", and which, together with a fee charged to policyholders that shall not be not subject to any agents' commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360)".

(2) ESTABLISHMENT OF CHARGEABLE PREMIUM RATES.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended—

(A) in subsection (b)—

(i) by striking "and" at the end of paragraph (2);

(ii) by redesignating paragraph (3) as paragraph (4); and

(iii) by inserting after paragraph (2), the following new paragraph:

"(3) adequate, together with the fee under paragraph (1)(B)(iii) or (2) of section 1307(a), to provide for any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360), and"; and

(B) by striking subsection (d) and inserting the following new subsection:

"(d) With respect to any chargeable premium rate prescribed under this section, a sum equal to the portion of the rate that covers any administrative expenses of carrying out the flood insurance and floodplain management programs which have been estimated under paragraphs (1)(B)(ii) and (1)(B)(iii) of section 1307(a) or paragraph (2) of such section (including the fees under such paragraphs), shall be paid to the Director. The Director shall deposit the sum in the National Flood Insurance Fund established under section 1310.".

(3) NATIONAL FLOOD INSURANCE FUND.—Section 1310(a)(4) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)(4)) is amended to read as follows:

"(4) to the extent approved in appropriations Acts, to pay any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360); and".

(4) ADMINISTRATIVE EXPENSES.—Section 1375 of the National Flood Insurance Act of 1968 (42 U.S.C. 4126) is amended by striking "program" and all that follows and inserting the following: "and floodplain management programs authorized under this title may be paid with amounts from the National Flood Insurance Fund (as provided under section 1310(a)(4)), subject to approval in appropriations Acts.".

(5) EXCEPTION TO LIMITATION ON PREMIUM INCREASES.—Notwithstanding section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) (as amended by this section), the premium rates charged for flood insurance under any program established pursuant to the National Flood Insurance Act of 1968 may be increased by more than 10 percent during fiscal year 1991, except that any increase in such rates not resulting from the inclusion in chargeable premium rates of administrative expenses of the flood insurance and floodplain management programs (pursuant to the amendments made by this subsection) may not exceed 10 percent.

Subtitle E—Banking Committee Oversight of Credit

SEC. 2401. CREDIT ACTIVITIES OF GOVERNMENT AGENCIES AND INSTRUMENTALITY.

(a) IN GENERAL.—Any provision of this Act and any amendment made by this Act to chapter 31 of title 31, United States Code, or any other provision of law, which would have the effect of restricting the authority of any corporation owned in whole or in part by the Federal Government, such as Amtrak, the Tennessee Valley Authority or the Saint Lawrence Seaway Development Corporation, or any privately owned Government-sponsored entity, such as a national bank, Federal savings association, or Federal credit union, from borrowing from or issuing obligations to any person other than the Secretary of the Treasury or guaranteeing any obligation issued by any person shall not take effect.

(b) CERTAIN ACTIONS PROHIBITED.—Notwithstanding any other provision of this Act or any amendment made by this Act to any other provision of law, no officer or employee of the United States may take any action which would have the effect of implementing any provision of, or any amendment made by, this Act which is described in subsection (a).

(c) VIOLATION TREATED AS VIOLATION OF ANTIDEFICIENCY ACT.—Any violation of subsection (b) shall be treated as a violation of section 1341(a) of title 31, United States Code.

SEC. 2402. REPORT ON CREDIT AND THE ISSUANCE OF NOTES AND THE REDEMPTION THEREOF.

(a) REPORT REQUIRED.—In order to assist the Committee on Banking, Finance and Urban Affairs of the House of Representatives in its oversight of, and legislative activities with respect to, money and credit and the issuance of notes and the redemption thereof, and to reduce the costs associated with credit activities and the issuance and redemption of notes, the Secretary of the Treasury shall submit an annual report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the credit activities of the Secretary and the policies of the Secretary with respect to the issuance and redemption of notes.

(b) CONTENTS OF REPORT.—The annual report required to be made by the Secretary of the Treasury under subsection (a) shall—

(1) describe the policies with respect to the credit activities of the Department of the Treasury;

(2) describe the policies of the Secretary and the Department with respect to the issuance and redemption of notes;

(3) contain a report on the amount of the costs, as determined by the Secretary, of such credit activities and the issuance and redemption of notes;

(4) identify actions taken by the Secretary to reduce costs associated with such credit activities and the issuance and redemption of notes during the period covered by such report; and

(5) any recommendations for legislative action which would reduce the costs associated with the credit activities of the Department of the Treasury and the issuance and redemption of notes.

(c) ANALYSIS OF EFFECT ON PRIVATE CREDIT ACTIVITIES.—The annual report required to be made by the Secretary of the Treasury under subsection (a) shall contain an analysis of the effect of—

(1) government credit activities; and

(2) government policies with respect to the issuance and redemption of notes,

on private credit activities.

(d) METHODOLOGY FOR REPORTING ON DETERMINATION OF COSTS.—

(1) IN GENERAL.—In determining the cost of, and in identifying methods for reducing the cost of, credit activities and the issuance and redemption of notes, the Secretary of the Treasury shall quantify the cost associated with each type of credit activity and note.

(2) FACTORS TO BE TAKEN INTO ACCOUNT.—In quantifying the costs involved with each type of credit activity and note pursuant to paragraph (1), the Secretary of the Treasury shall determine—

(A) the volume of each type of credit activity and note; and

(B) the costs involved with each type of credit activity and the issuance and redemption of each type of note with respect to any relevant factor, including—

(i) credit cost;

(ii) interest cost;

(iii) management and operational costs; and

(iv) expenses incurred in connection with the issuance and redemption of notes.

(e) DEFINITIONS.—For purposes of this section—

(1) CREDIT ACTIVITY.—The term "credit activity" includes any borrowing or lending activity and any extension of credit by or to any person or governmental entity, including the issuance of notes in connection with any such activity.

(2) NOTE.—The term "note" includes any obligation, including any bill, bond, or other instrument, issued in connection with any credit activity.

SEC. 2403. EFFECT OF CHANGES IN GOVERNMENT POLICY ON CREDIT, HOUSING, URBAN DEVELOPMENT, BANKS AND THE BANKING INDUSTRY, AND MONETARY POLICY.

(a) REPORTS REQUIRED.—The Comptroller General of the United States and the Secretary of the Treasury shall each submit an annual report to the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives on the effect of changes in Federal tax and revenue laws on—

(1) the cost and availability of credit;

(2) the cost and availability of public and private housing;

(3) the progress of urban development;

(4) the financial condition of banks and the banking industry; and

(5) the conduct of Federal monetary policy and the operation of the Federal Reserve System.

(b) RECOMMENDATION.—Each report required under subsection (a) shall also contain the recommendations of the Comptroller General and the Secretary of the Treasury for changes in law or government policy to reduce Federal spending and address the effect of the changes in tax and revenue laws on the subjects described in subsection (a).

(c) EFFECT OF CHANGES IN TAX LAWS ON CREDIT FACILITIES AND ACTIVITIES.—

(1) IN GENERAL.—The first reports required under subsection (a) shall contain an analysis of the effect of changes in tax law during the period 1980 to 1990 and recommendations for changes in law or government policy to address the effect of the changes in tax and revenue laws during the period from 1980 to 1990 on the subjects described in subsection (a) and each subsequent report shall analyze the effect of changes in tax and revenue law during the immediately preceding year and contain recommendations to respond to changes in tax and revenue law during the immediately preceding year.

(2) ANALYSIS OF EFFECT OF 1986 AND 1981 TAX ACTS ON SAVINGS AND LOAN CRISIS.—In addition to the requirement of paragraph (1) relating to the first reports required under subsection (a), such reports shall contain a detailed analysis of the extent to which the abrupt changes in the tax consequences of various kinds of investment activities as a result of the enactment of the Tax Reform Act of 1986 and the Economic Recovery Tax Act of 1981, and the effect such changes had on real property values and institutions which provide credit with respect to such investment activities and property, contributed to the rapid escalation of the crisis in the savings and loan industry in 1987 and 1988.

(d) TIMING OF REPORTS.—The first reports by the Comptroller General and the Secretary of the Treasury pursuant to subsection (a) shall be submitted no later than July 1, 1991, and each subsequent report shall be submitted no later than February 1 of each subsequent year.

TITLE III—EDUCATION AND LABOR COMMITTEE

Subtitle A—Student Loan Program Savings

SEC. 3001. SHORT TITLE.

This subtitle may be cited as the "Student Loan Default Prevention Initiative Act of 1990".

SEC. 3002. PRECLAIMS ASSISTANCE PAYMENTS.

(a) AMENDMENT.—Section 428(f)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(f)(1)(A)) is amended—

(1) by striking clause (iii); and

(2) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively.

SEC. 3003. INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.

(a) AMENDMENT.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-7(b)(1)) is amended to read as follows:

"(1) FIRST YEAR STUDENTS.—The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of program of postsecondary education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for loans made on or after the date of enactment of this Act to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991.

SEC. 3004. INELIGIBILITY BASED ON HIGH DEFAULT RATES AND BANKRUPTCY.

(a) IN GENERAL.—Section 435(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)) is amended by adding at the end thereof the following new paragraph:

"(3) INELIGIBILITY BASED ON HIGH DEFAULT RATES.—(A) An institution whose cohort default rate is equal to or greater than the threshold percentage specified in subparagraph (B) for each of the three most recent fiscal years for which data are available shall not be an eligible institution under this part unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary and—

"(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B); or

"(ii) there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable.

During the pendency of an appeal, the Secretary shall suspend the eligibility of the institution in accordance with his authority to take emergency actions under section 487(c)(1)(E).

"(B) For purposes of determinations under subparagraph (A) for academic year 1991-1992 and any succeeding academic year, the threshold percentage is 35 percent.

"(C) This paragraph shall not apply to any institution that is—

"(i) a part B institution within the meaning of section 322(2) of this Act;

"(ii) a tribally controlled community college within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; or

"(iii) a Navajo Community College under the Navajo Community College Act.".

"(4) INELIGIBILITY BASED ON BANKRUPTCY.—An institution shall cease to be an eligible institution under this part if that institution commences a voluntary case by filing a petition with a bankruptcy court under title 11, United States Code.".

(b) REFUSAL TO PROVIDE STATEMENT TO LENDER.—Section 428(a)(2)(F) of such Act (20 U.S.C. 1078(a)(2)(F)) is amended by inserting before the period at the end thereof the following: ", except in individual cases where the institution determines that the portion of the student's expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources",

(c) EXTENSION OF DEFAULT RATE LIMITATIONS ON SLS LOANS.—Section 2003(a)(3) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking out "October 1, 1991" and inserting "October 1, 1996".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective July 1, 1991.

SEC. 3005. SPECIAL ALLOWANCES.

(a) REDUCTION OF RATE.—Section 438(b)(2)(A)(iii) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)(A)(iii)) is amended by striking "3.25 percent" and inserting "3.0 percent".

(b) ELIMINATION OF FLOOR ON ALLOWANCE FOR LOANS FROM TAX EXEMPT FUNDS.—Section 438(b)(2)(B) of such Act (20 U.S.C. 1087-1(b)(2)(B)) is amended—

(1) by striking division (ii); and

(2) by redesignating division (iii) as division (ii).

(c) EFFECTIVE DATES.—The amendments made by this section shall apply with respect to loans made on or after the date of enactment of this Act to cover periods of instruction beginning on or after November 1, 1990.

SEC. 3006. ABILITY TO BENEFIT.

(a) IN GENERAL.—Section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)) is amended to read as follows:

"(d) ABILITY TO BENEFIT.—In order for a student who is admitted on the basis of ability to benefit from the education or training offered to be eligible for any grant, loan, or work assistance under this title, the student shall, prior to enrollment, pass an independently administered examination approved by the Secretary.".

(b) CONFORMING AMENDMENT.—Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended in the fourth sentence by inserting ", except in accordance with section 484(d) of this Act," after "shall not".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991.

SEC. 3007. MAXIMUM SLS LOAN AMOUNTS.

(a) EFFECTIVE DATE EXTENSION.—Section 2003(b)(2) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "1991" and inserting "1996".

(b) PERIOD FOR DETERMINATION OF MAXIMUM LOAN AMOUNTS.—Section 428A(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(b)) is amended by striking "9 consecutive" and inserting "7 consecutive".

SEC. 3008. COLLEGE FACILITIES.

(a) COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION REPORT.—The College Construction Loan Insurance Association shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for expanding the Association's operations and activities to provide direct insurance to institutions that do not have investment-grade rated debt instruments. Such plan shall also include an analysis of the impact of such expansion on the Association's ability to do business and recommendations as to the level of Federal investment that would be necessary to assist the Association with such an expansion. Such plan shall be submitted not later than August 1, 1991.

(b) ADDITIONAL AUTHORITY FOR HOUSING AND EDUCATION FACILITIES LOANS.—Section 761 of the Higher Education Act of 1965 (20 U.S.C. 1132g) is amended by adding at the end thereof the following new subsection:

"(g) ADDITIONAL AUTHORIZATION.—

"(1) In addition to the amounts authorized by subsection (f), there are authorized to be appropriated to the Secretary such sums as may be necessary to provide loans, under terms and conditions consistent with this part, to private, 4-year, nonprofit institutions of higher education that serve primarily low-income and minority students and that have been in existence for at least 80 years.

"(2) Loans from funds appropriated under this subsection may be used—

"(A) to construct, reconstruct, or renovate any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by institutions of higher education for instructional or research purposes or for housing students, faculty and staff;

"(B) to purchase or lease instructional equipment, research instrumentation and any capital equipment or fixture related to facilities described in subparagraph (A);

"(C) to finance any other facility, equipment, or fixture the construction, acquisition, or renovation of which is essential to the maintaining of accreditation of the member institution by a nationally recognized accrediting agency or association; and

"(D) to purchase any real property or interest therein underlying facilities described in subparagraph (A) or (C).

"(3) Section 763(a) shall not apply to funds provided in the form of loans from amounts appropriated under this subsection.".

SEC. 3009. SUNSET PROVISION.

The amendments made by this subtitle shall cease be effective on October 1, 1995.

Subtitle B—Amendments Relating to Employee Retirement Income Security Act of 1974

PART 1—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS

SEC. 3101. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 3102. ADDITIONAL TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR TO INCREASE BENEFITS.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '50 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 30 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of—

"(I) 30 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includible in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

"(ii) COORDINATION WITH SECTION 415 LIMITATION.—If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause—

"(I) such amount shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

"(iii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

"(iv) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) PRO RATA BENEFIT INCREASES.—

"(A) IN GENERAL.—The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the present values of the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(i) have an aggregate present value not less than 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(ii) take effect immediately on the termination date.

"(B) PRO RATA INCREASE.—For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as—

"(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(ii) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the present values of the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting 'equal to' for 'not less then'.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State law."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

(C) Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(41) The term 'single-employer plan' means a plan which is not a multiemployer plan.".

SEC. 3103. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

PART 2—TRANSFERS TO RETIREE HEALTH ACCOUNTS

SEC. 3111. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (c)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM COST REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (c)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)), except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 3112. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1)(A) of such Act (29 U.S.C. 1104(a)(1)(A)) is amended by inserting "subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "(A)".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a single-employer plan which is a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFITS ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code), except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART 3—PBGC PREMIUMS

SEC. 3121. INCREASE IN PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM.—

(1) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "for plan years beginning after December 31, 1987, an amount equal to the sum of $16" and inserting "for plan years beginning after December 31, 1990, an amount equal to the sum of $19".

(2) CONFORMING AMENDMENT.—Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended—

(A) in clause (ii), by striking "and" at the end;

(B) by adjusting the margination of clause (iii) so as to conform to the margination of clauses (i) and (ii); and

(C) by adding at the end thereof the following new clause:

"(iv) with respect to each plan year beginning after December 31, 1987, and before January 1, 1991, an amount equal to $16 for each individual who was a participant in such plan during the plan year, and".

(b) INCREASE IN ADDITIONAL PREMIUM.—Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended—

(1) by striking "$6.00" in clause (ii) and inserting "$9.00", and

(2) by striking "$34" in clause (iv)(I) and inserting "$53".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1990.

Subtitle C—Labor Civil Penalties and Fines

SEC. 3201. CIVIL PENALTIES AND FINES UNDER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970.

(a) IN GENERAL.—Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended—

(1) in subsection (a), by striking out "$10,000 for each violation" and inserting in lieu thereof "$70,000 for each violation, but not less than $7,000 for each willful violation and not less than $1,000 for each repeated violation";

(2) in subsection (b), by striking out "$1,000 for each such violation" and inserting in lieu thereof "$7,000 for each such violation, but not less than $700 for each such violation";

(3) in subsection (c), by striking out "$1,000 for each such violation" and inserting in lieu thereof "$7,000 for each such violation, but not less than $700 for each such violation";

(4) in subsection (d), by striking out "$1,000" and inserting in lieu thereof "$7,000";

(5) in subsection (e)—

(A) by striking out "fine of not more than $10,000" and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code,";

(B) by striking out "six months" and inserting in lieu thereof "10 years";

(C) by striking out "fine of not more than $20,000" and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code,"; and

(D) by striking out "one year" and inserting in lieu thereof "20 years";

(6) in subsection (f), by striking out "fine of not more than $1,000 or by imprisonment for not more than six months," and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 2 years,";

(7) in subsection (g), by striking out "fine of not more than $10,000, or by imprisonment for not more than six months," and inserting in lieu thereof "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 1 year,";

(8) by redesignating subsections (h) through (l) as subsections (i) through (m), respectively;

(9) by inserting in lieu thereof after subsection (g) the following new subsection:

"(h) If any employer willfully violates any standard, rule, or order promulgated pursuant to section 6 or any regulation prescribed pursuant to this Act and if that violation caused serious bodily injury to any employee but did not cause death to any employee, such employer shall, upon conviction, be punished by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 5 years, or by both, except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 10 years, or by both.";

(10) in subsection (j) (as redesignated), by striking out "$1,000" and inserting in lieu thereof "$7,000"; and

(11) by adding at the end the following new subsections:

"(n) If a penalty or fine is imposed on a director, officer, or agent of an employer under subsection (e), (f), (g), or (h), such penalty or fine shall not be paid out of the assets of the employer on behalf of that director, officer, or agent.

"(o) Nothing in this Act shall preclude State and local law enforcement agencies from conducting criminal prosecutions in accordance with the laws of such State or locality.".

(b) DEFINITION.—Section 3 of such Act (29 U.S.C. 652) is amended by adding at the end the following new paragraph:

"(15) The term 'serious bodily injury' means bodily injury that involves—

"(A) a substantial risk of death;

"(B) protracted unconsciousness;

"(C) protracted and obvious physical disfigurement; or

"(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.".

SEC. 3202. CIVIL PENALTIES UNDER FEDERAL MINE SAFETY AND HEALTH ACT OF 1977.

(a) SECTION 110(a).—Section 110(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(a)) is amended by striking out "$10,000 for each such violation" and inserting in lieu thereof "$50,000 for each such violation but not less than $1,000 for each such violation".

(b) SECTION 110(b).—Section 110(b) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820(b)) is amended—

(1) by striking out "1,000" and inserting in lieu thereof "$5,000", and

(2) by inserting before the period the following: "but not less than $1,000 for each day during which such failure or violation continues".

SEC. 3203. CIVIL PENALTIES UNDER CHILD LABOR PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938.

Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended—

(1) by striking out "not to exceed $1,000 for each such violation" and inserting in lieu thereof "not to exceed $10,000 for each employee who was the subject of such a violation but not less than $1,000 for each employee who was the subject of such a violation",

(2) by striking out "or any person who repeatedly or willfully violates section 6 or 7",

(3) by inserting after the first sentence the following: "Any person who repeatedly or willfully violates section 6 or 7 shall be subject to a civil penalty of not to exceed $1,000 for each such violation.",

(4) by striking out "such penalty" each place it occurs except after "appropriateness of" and insert in lieu thereof "any penalty under this subsection", and

(5) by striking out ", sums collected" and all that follows in such section and inserting in lieu thereof a period and "Civil penalties collected under this subsection shall be deposited in the general fund of the Treasury.".

SEC. 3205. CIVIL PENALTIES FOR CERTAIN UNFAIR LABOR PRACTICES.

(a) PENALTIES.—Section 10(b) of the National Labor Relations Act (29 U.S.C. 160(b)) is amended by inserting "(1)" after "(b)" and by adding at the end the following:

"(2)(A) If a complaint is issued under paragraph (1) stating that a person has engaged in an unfair labor practice within the meaning of section 8(a)(3) or 8(b)(2), such person shall be subject to a civil penalty of not more than $10,000 for each employee who is the subject of such unfair labor practice and not less than $1,000 for each employee who is the subject of such unfair labor practice.

"(B) If a complaint is issued under paragraph (1) stating that a person has engaged in an unfair labor practice within the meaning of section 8(a)(5) or 8(b)(3), such person shall be subject to a civil penalty of not more than $10,000 for each such unfair labor practice and not less than $1,000 for each such unfair labor practice.

"(C) The General Counsel shall assess civil penalties under subparagraphs (A) and (B). In determining the amount of a civil penalty, the General Counsel shall take into account the nature, circumstances, extent, and gravity of the unfair labor practice with respect to which the civil penalties are to be assessed and, with respect to the person who engaged in such unfair labor practice, ability to pay, effect on ability to continue to do business, any history of prior such unfair labor practices, the degree of culpability, and such other matters as justice may require.

"(D) An assessment of civil penalties under subparagraph (C) shall be reviewable in the hearing held under paragraph (1) on the complaint referred to in subparagraph (A) or (B).

"(E) Civil penalties collected under subparagraphs (A) and (B) shall be deposited in the general fund of the Treasury.".

(b) CONFORMING AMENDMENTS.—

(1) Section 3(d) of the National Labor Relations Act (29 U.S.C. 153(d)) is amended by inserting after "section 10" the following: "and the assessment of civil penalties under section 10(b)(2)".

(2) The third sentence of section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by inserting after "such unfair labor practice" the following: ", to pay any civil penalty assessed under subsection (b)(2)",

Subtitle D—Early Childhood Education and Development

SEC. 3301. SHORT TITLE.

This subtitle may be cited as the "Early Childhood Education and Development Act of 1990".

SEC. 3302. PURPOSES.

The purposes of this subtitle are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services and early childhood development programs to expand child care options available to all families who need such services;

(3) to assist States and Indian tribes to work with businesses to find innovative ways to provide employee child care services through the workplace;

(4) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services and early childhood development;

(5) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(6) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(7) to provide assistance to States and Indian tribes to improve the quality of, and coordination among, child care programs and early childhood development programs;

(8) to increase the opportunities for attracting and retaining qualified staff in the field of child care and early childhood development to provide high quality child care services to children; and

(9) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 3303. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the purposes specified in subsection (b) $1,300,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, 1994, and 1995.

(b) AVAILABILITY OF APPROPRIATIONS.—Of the aggregate amount appropriated under subsection (a) for a fiscal year—

(1) 47 percent shall be available to provide developmentally appropriate child care services under the Head Start Act, as amended by part 1 of this subtitle;

(2) 33 percent shall be available to carry out title VIII of the Elementary and Secondary Education Act of 1965, as added by part 2 of this subtitle; and

(3) 20 percent shall be available to carry out the Child Care Quality Improvement Act, as added by part 3 of this subtitle.

PART 1—EXPANDED HEAD START

SEC. 3311. DEFINITIONS.

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended by adding at the end the following:

"(4) The term 'full calendar year' means all days of the year other than Saturdays, Sundays, and legal public holidays.

"(5) The term 'full-working-day' means at least 10 hours per day.

"(6) The term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living

family budget issued by the Secretary of Labor.

"(7) The term 'sliding fee scale' means the sliding fee scale established and revised under section 658.".

SEC. 3312. FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) in subsection (a)—

(A) by striking "and (2)" and inserting "(2)"; and

(B) by inserting the following before the period at the end: "; and (3) may provide developmentally appropriate child care services in accordance with this subchapter"; and

(2) in subsection (b) by striking "subchapter E" and inserting "subchapter G".

SEC. 3313. CONFORMING AMENDMENT.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended by inserting "(other than the provisions relating to child care services referred to in section 638(a)(3))" after "subchapter".

SEC. 3314. ALLOTMENT OF FUNDS.

Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1) by inserting "and the amount made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990" after "section 639";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A) by inserting "under section 639" after "appropriated";

(B) in the second sentence by inserting "under section 638" after "appropriation";

(C) in the last sentence by striking "such funds appropriated under this subchapter" and inserting "such funds reserved under this paragraph";

(D) by inserting before the last sentence the following: "The Secretary shall reserve 8 percent of the amount made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 for any fiscal year, for use in accordance with subparagraphs (A) and (B).."; and

(3) in paragraph (3)—

(A) by striking "The Secretary" and inserting "After reserving the amounts required by paragraph (2), the Secretary"; and

(B) by striking "remaining 87 percent of the amounts appropriated" and inserting "remainder".

SEC. 3315. FEDERAL SHARE.

Section 640(b) of the Head Start Act (42 U.S.C. 9835(b)) is amended—

(1) in the first sentence by striking "Financial" and inserting "Except as provided in paragraph (2), financial";

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end the following:

"(2) Financial assistance extended under this subchapter to a Head Start agency, attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990, shall be 100 percent of the approved costs of the developmentally appropriate child care services for which such assistance is provided.".

SEC. 3316. PARTICIPATION IN HEAD START PROGRAMS.

(a) CHILD CARE SERVICES AND EXPANDED HEAD START ELIGIBILITY.—Section 645(a) of the Head Start Act (42 U.S.C. 9840(a)) is amended—

(1) in the second sentence of paragraph (1) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3)(A) Funds allotted under section 640 that are attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 shall be expended only in accordance with this paragraph.

"(B) Funds allotted under section 640 that are attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 may be expended to enable Head Start programs to provide developmentally appropriate child care services throughout the full calendar year to children who are eligible under paragraphs (1) and (2) to participate in, and are participating in, Head Start programs so that such children receive full-working-day services if such child care services are provided to meet the needs of parents each of whom is working, or attending a job training or educational program.

"(C) Subject to subparagraph (D) and subsection (b)(2), funds allotted under section 640 that are attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 may be expended to enable Head Start programs to provide throughout the full calendar year both Head Start services (other than services specified in section 638(a)(3)) and developmentally appropriate child care services to children—

"(i) who are ineligible under paragraphs (1) and (2) to participate in Head Start programs; and

"(ii) whose family income is greater than the poverty line but less than 125 percent of the poverty line;

so that such children receive full-working-day services if such services are provided to meet the needs of parents each of whom is working, or attending a job training or educational program.

"(D)(i) For purposes of carrying out this paragraph, funds allotted under section 640 that are attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 may not be expended for a fiscal year for the purpose specified in subparagraph (C) unless developmentally appropriate child care services are provided under subparagraph (B) for such fiscal year to all children who are eligible to receive such services and whose parents request such services.

"(ii) For any fiscal year, an amount not to exceed 20 percent of the funds allotted under section 640 that are attributable to funds made available under section 3303(b)(1) of the Early Childhood Education and Development Act of 1990 may be expended for the purpose specified in subparagraph (C).".

(b) FEES.—Section 645(b) of the Head Start Act (42 U.S.C. 9840(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) Parents of children who receive Head Start services (including developmentally appropriate child care services) under the authority of subsection (a)(3)(C) shall pay a portion of the cost of such services, based on a sliding fee scale. Payments received under this paragraph shall be retained by Head Start agencies and shall be expended by such agencies only to carry out this subchapter.".

SEC. 3317. ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE.

The Head Start Act (42 U.S.C. 9831-9852) is amended by adding at the end the following:

"ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE

"SEC. 658. The Secretary shall establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing between the Federal Government (acting indirectly through Head Start agencies) and the families that receive services for which assistance is provided under the amendments to this Act made by Early Childhood Education and Development Act of 1990. Such fee scale shall be based on the services provided to, and the income of the families (adjusted for family size and extraordinary medical expenses paid by the family as a result of a disability of a family member) of, eligible children who receive such services, except that families whose income does not exceed the poverty line (as determined under section 652) may not be required to pay a fee for such services.".

SEC. 3318. TECHNICAL AMENDMENT.

Section 652(b) of the Head Start Act (42 U.S.C. 9847(b)) is amended by inserting "For All Urban Consumers" after "Consumer Price Index".

PART 2—EARLY CHILDHOOD DEVELOPMENT AND SCHOOL-RELATED CHILD CARE

SEC. 3321. GRANTS FOR STATE AND LOCAL PROGRAMS.

The Elementary and Secondary Education Act of 1965 is amended—

(1) by redesignating title X as title IX;

(2) by redesignating sections 8001 through 8005 as sections 9001 through 9005, respectively; and

(3) by inserting before title IX (as redesignated by paragraph (1)) the following new title:

"TITLE VIII—EARLY CHILDHOOD DEVELOPMENT AND SCHOOL-RELATED CHILD CARE

"SEC. 8001. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to eligible States to assist in the expansion or establishment of before- and after-school child care or early childhood development programs that offer services that—

"(1) are intended to provide an environment which enhances the educational, social, cultural, emotional, and recreational development of children; and

"(2) in the case of before- and after-school child care—

"(A) are provided Monday through Friday, including school holidays and vacation periods other than legal public holidays, to children attending half-day early childhood development programs, kindergarten, or elementary or secondary school classes during such times of the day and on such days that regular instructional services are not in session; and

"(B) are not intended to extend or replace the regular academic program.

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts shall be available to carry out this title as provided in section 3303(b)(2) of the Early Childhood Education and Development Act of 1990.

"SEC. 8002. AMOUNTS OF GRANTS.

"(a) GRANTS FOR TERRITORIES.—

"(1) The Secretary shall reserve 1 percent of the amount made available for purposes of carrying out this title in each fiscal year for payments to—

"(A) Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for grants under this title; and

"(B) the Secretary of the Interior in the amount necessary—

"(i) to make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this title with respect to out-of-State

Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior, in amounts determined by the Secretary in accordance with the provisions of section 1005(d)(1); and

"(ii) to meet the needs of Indian children on reservations serviced by elementary and secondary schools for Indian children operated with Federal assistance or operated by the Department of the Interior, pursuant to an agreement between the Secretary and the Secretary of the Interior made in accordance with the provisions of section 1005(d)(2).

"(2) The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Secretary determines will best carry out the purposes of this title.

"(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND THE COMMONWEALTH OF PUERTO RICO.—

"(1)(A) In each fiscal year, the Secretary shall determine which local educational agencies in a State are eligible to receive a grant under subparagraph (B) and the amount of the grant each such local educational agency is eligible to receive in accordance with the provisions of subsections (a) through (c) of section 1005, section 1403(b), and subparagraph (B).

"(B) Except as provided in paragraph (2), and subject to the availability of appropriations, in any fiscal year a local educational agency shall receive a grant under this subsection only if the amount of the grant which such local educational agency is eligible to receive, as determined under subsections (a) through (c) of section 1005 and section 1403(b)—

"(i) is not less than $15,000; or

"(ii) is not less than $5,000, in the case of a local educational agency which has under its jurisdiction children at least 30 percent of whom are eligible to be counted under section 1005(c).

"(2)(A) In each fiscal year, amounts remaining from amounts appropriated for the purpose of making grants under this title after carrying out subsection (a) and paragraph (1) shall be allocated to the States for the purpose of making grants to local educational agencies that did not receive a grant under paragraph (1) for such fiscal year. Each State shall receive under this paragraph an amount that bears the same relationship to such remaining amounts as the amount received by all local educational agencies in such State under chapter 1 of title I in the preceding fiscal year bears to the amount made available to carry out such chapter in such fiscal year, except that in any fiscal year no State may receive any amount under this paragraph that, when added to the amount received under paragraph (1) in such fiscal year by all local educational agencies in such State, would total more than an amount that bears the same relationship to the amount made available for purposes of carrying out this title for such fiscal year as the amount received by all local educational agencies in such State in the preceding fiscal year under chapter 1 of title I bears to the amount made available to carry out such chapter in such fiscal year.

"(B) Subject to subparagraphs (C) and (D), in each fiscal year each State shall, from amounts made available to it under this paragraph, make grants to local educational agencies that did not receive a grant under paragraph (1) for such fiscal year, for the purposes specified in section 8001.

"(C) Each State shall give priority for grants under subparagraph (B) to local educational agencies—

"(i) that have under their jurisdiction the greatest concentrations of children whose families have very low income;

"(ii) that will use amounts made available under the grant to supplement, not supplant, non-Federal funds being used before the grant is received for the purposes for which the grant is provided; and

"(iii) that are located in areas in greatest need of child care and early childhood development services, taking into consideration the needs and resources assessment conducted under section 659F of Public Law 97-35.

"(D) The State may not make a grant under this paragraph for an amount that is less than $5,000.

"(3) For purposes of determining the amount that a local educational agency in a State would be eligible to receive under this title, the Secretary shall include children aged 4 in the count conducted under section 1005(c).

"(4) For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(c) LIMITATION.—Notwithstanding the provisions of this section, the amount paid to any State under this title for any fiscal year shall not exceed 150 percent of—

"(1) the amount received by such State under this title in the preceding fiscal year; or

"(2) an amount that bears the same relationship to the amount made available to carry out this title as the amount received by all local educational agencies in such State under chapter 1 of title I in the preceding fiscal year bears to the amount made available to carry out such chapter in such fiscal year.

"SEC. 8003. LOCAL PROGRAM REQUIREMENTS.

"(a) APPLICATION.—A local educational agency that desires to receive funds under this title shall submit an application to the State that includes a 2-year plan describing how the local educational agency will use such funds to carry out the purposes of this title.

"(b) USE OF FUNDS.—Each local educational agency that receives funds under this title shall use such funds to expand, establish, or operate an early childhood development program or before- and after-school child care program, or both, in accordance with the application and plan approved by the State. Each such program shall meet the following requirements:

"(1)(A) An early childhood development program shall be provided at the costs described in subparagraph (C) for children described in subparagraph (B).

"(B) Children described in this subparagraph are children from families—

"(i) within the area served by the local educational agency; and

"(ii) in which the parent or parents work or are in education or training programs.

"(C) The program described in subparagraph (A)—

"(i) shall be provided at no cost for 4-year-old children from families within the area served by the local educational agency with income of not more than 100 percent of the poverty level (to the extent such services are not available under the Head Start Act); and

"(ii) may be provided, from not more than 25 percent of the funds provided under this title that will be used to provide such program—

"(I) on a sliding fee scale for 4-year-old children from families within the area served by the local educational agency with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level; and

"(II) on a full-fee basis for children from families within the area served by the local educational agency with income of more than 160 percent of the lower living standard income level.

"(2) At the option of the local educational agency, an early childhood development program may be provided for 3-year-old children under the terms described in paragraph (1).

"(3)(A) A before- and after-school child care program shall provide such care at the costs described in subparagraph (C) for children described in subparagraph (B). Such program shall consist of services that—

"(i) are provided during such times of the day when regular instructional services are not in session; and

"(ii) are not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment that enhances the social, educational, cultural, emotional, and recreational development of school-age children.

"(B) Children described in this subparagraph are children from families within the area served by the local educational agency and in which—

"(i) the parent or parents work or are in education or training programs; and

"(ii) the children are attending early childhood development programs, kindergarten, or elementary or secondary school classes.

"(C) The care described in subparagraph (A)—

"(i) shall be provided at no cost for children from families within the area served by the local educational agency with income of not more than 100 percent of the poverty level; and

"(ii) may be provided, from not more than 25 percent of the funds provided under this title that will be used to provide such care—

"(I) on a sliding fee scale for children from families within the area served by the local educational agency with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level; and

"(II) on a full-fee basis for children from families within the area served by the local educational agency with income of more than 160 percent of the lower living standard income level.

"(4)(A) Services shall be available during the full working day for 4-year-olds (and for 3-year-olds, where offered). Such services may only include an early childhood development program or before- and after-school care, or both.

"(B) Before- and after-school care shall be available for the calendar year, Monday through Friday, excluding legal public holidays.

"(5) The local educational agency shall provide for the inclusion in each program of eligible children enrolled in private early childhood development programs and in private kindergarten and elementary and secondary schools in accordance with the provisions of chapter 1 of title I relating to the participation of children enrolled in private schools.

"(6) Each early childhood development program shall be in compliance with—

"(A) applicable State regulatory standards for health and safety; and

"(B) applicable State standards for program quality.

"(7) With respect to early childhood development programs, norm-referenced and criterion-referenced standardized tests shall not be administered.

"(8) With respect to before- and after-school child care programs—

"(A) each such program provided shall be developmentally appropriate and meet the diverse recreational, social, emotional, cultural, and educational needs of school-aged children; and

"(B) each such program shall be in compliance with—

"(i) applicable State regulatory standards for health and safety; and

"(ii) applicable State standards for program quality.

"(9) A smooth transition of children shall be encouraged—

"(A) from early childhood development programs to kindergarten; and

"(B) from kindergarten to grade 1.

"(10) Services shall include—

"(A) adequate and nutritious meals and snacks;

"(B) if practicable, social services; and

"(C) in the case of early childhood development programs—

"(i) coordination of such health and nutrition services as are available from other agencies for children in such programs; and

"(ii) referrals to health and social services for which an enrolled child and the family of such child are eligible under Federal, State, or local law.

"(11) Information, programs, and activities for parents shall be provided, to the extent practicable, in a language and form the parents understand.

"(c) FEES.—Payments received by local educational agencies from parents of children who receive early childhood development services under the authority of subsection (b)(1)(C)(ii) or before- and after-school child care services under the authority of subsection (b)(3)(C)(ii) shall be retained by such agencies and shall be expended by such agencies only to carry out this title.

"(d) COORDINATION WITH EXISTING PROVIDERS.—Each local educational agency that receives funds under this title shall coordinate the program carried out with such funds with other public entities and private nonprofit community-based organizations that provide before- and after-school child care and early childhood development programs in the area served by the local educational agency, including entities and organizations that provide programs with assistance received under section 619 of the Education of the Handicapped Act.

"(e) CONTRACTING AUTHORITY.—

"(1) A local educational agency may provide a before- and after-school child care program or early childhood development program in accordance with the provisions of this title through grants to or contracts with other public entities and eligible private nonprofit community-based organizations that provide before- and after-school child care programs or early childhood development programs, as appropriate. In making a grant or entering into a contract under the authority of the preceding sentence, a local educational agency shall give priority to a program offered in a public school building, if the cost of such program is comparable to the costs of programs offered in other facilities.

"(2) To be eligible for a grant or contract under this subsection, a private nonprofit community-based organization shall provide assurances that—

"(A) the organization is able to and willing to enroll in the program, or has a history of enrolling, racially, ethnically, linguistically, and economically diverse children and children with disabilities;

"(B) the organization will ensure that the program is in compliance with section 654 of the Head Start Act; and

"(C) the organization will comply with other reasonable requirements established by the local educational agency consistent with the purposes of this title.

"(3) Title IX of the Education Amendments of 1972 shall apply to any program or activity provided with assistance under this title to the same extent and in the same manner as any program or activity included within the meaning of such term under such title IX. References in this title to section 654 of the Head Start Act shall be construed so as to be consistent with such title IX.

"SEC. 8004. STATE PROGRAM REQUIREMENTS.

"(a) STATE EDUCATIONAL AGENCY ASSURANCES.—In order for a State to participate under this title, the State shall submit to the Secretary, through its State educational agency, assurances that the State educational agency—

"(1) will meet the requirements in paragraphs (2) and (5) of section 435 of the General Education Provisions Act, relating to fiscal control and fund accounting procedures;

"(2) will establish, before the expiration of the 3-year period beginning on the date of the enactment of the Early Childhood Education and Development Act of 1990—

"(A) standards for early childhood development programs for which funds are received under this title, which shall include standards relating to—

"(i) group size limits in terms of the number of staff members and the number and ages of children;

"(ii) the maximum appropriate child-staff ratios;

"(iii) qualifications and background of staff members;

"(iv) health, nutrition, and safety requirements for children and staff members; and

"(v) parental involvement; and

"(B) standards for before- and after-school child care programs for which funds are received under this title, which shall include standards relating to—

"(i) inservice training for staff members;

"(ii) health, nutrition, and safety requirements for children and staff members; and

"(iii) parental involvement;

"(3) will ensure that its local educational agencies and State agencies receiving funds under this title comply with any applicable statutory and regulatory provisions pertaining to this title; and

"(4) will require any local educational agency that desires to receive assistance under this title to submit an application for such assistance that includes a 2-year plan describing how the local educational agency will carry out the objectives of this title.

"(b) LIMITATION ON STATE PROGRAM COSTS.—The State educational agency may, from the amounts paid to it pursuant to section 8006, use not more than 3 percent of such amounts for costs of administration related to carrying out this title.

"SEC. 8005. ESTABLISHMENT AND REVISION OF SLIDING FEE SCALE.

"The State shall establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing between the Federal Government (acting indirectly through the State and local educational agencies) and the families that receive child care or early childhood development services for which assistance is provided under this title. Such fee scale shall be based on the services provided to, and the income of the families (adjusted for family size and extraordinary medical expenses paid by the family as a result of a disability of a family member) of, eligible children who receive such services, except that it shall apply only to services received by children from families with income of more than 100 percent of the poverty level but not more than 160 percent of the lower living standard income level.

"SEC. 8006. PAYMENTS TO STATES.

"The Secretary shall pay to each State on a timely basis, in advance or otherwise, the amount which it and the local educational agencies of such State are eligible to receive under this title.

"SEC. 8007. PAYMENTS TO LOCAL EDUCATIONAL AGENCIES.

"Each State educational agency shall distribute not less than 97 percent of the amounts paid to it pursuant to section 8006 to the local educational agencies of the State which are eligible to receive grants under this title and which have applications and plans approved by the State.

"SEC. 8008. DEFINITIONS.

"For purposes of this title:

"(1) The term 'community-based organization' means an organization that—

"(A) is representative of the community or significant segments of the community; and

"(B) provides child care, preschool programs, or early childhood development programs.

"(2) The term 'early childhood development program' means a program to provide educational services that are appropriate for the child's age and all areas of the individual child's development, including physical, emotional, social, cultural, cognitive, and communication, and including services appropriate to meet the needs of children with disabilities.

"(3) The term 'full working day' means at least 10 hours per day.

"(4) The term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor.

"(5) The term 'poverty level' means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index For All Urban Consumers.

"(6) The term 'sliding fee scale' means the sliding fee scale established and revised under section 8005.".

SEC. 3322. TECHNICAL AMENDMENT.

The first sentence of section 1005(c)(2)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711(c)(2)(B)) is amended by inserting after "Consumer Price Index" the following: "For All Urban Consumers".

PART 3—CHILD CARE QUALITY IMPROVEMENT

SEC. 3331. QUALITY IMPROVEMENT.

Chapter 8 of subtitle A of title VI of Public Law 97-35 (42 U.S.C. 9871-9877) is amended—

(1) by redesignating subchapters C, D, and E, as subchapters D, E, and F, respectively; and

(2) by inserting after subchapter B the following:

"SUBCHAPTER C—CHILD CARE QUALITY IMPROVEMENT

"SEC. 658A. SHORT TITLE.

"This subchapter may be cited as the 'Child Care Quality Improvement Act'.

"SEC. 658B. AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.

"The Secretary may provide financial assistance to eligible States, and to Indian tribes and tribal organizations, to carry out this subchapter.

"SEC. 658C. AMOUNTS RESERVED; ALLOTMENTS.

"(a) AMOUNTS RESERVED.—

"(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount made available under section 3303(b)(3) of the Early Childhood Education and Development Act of 1990 in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

"(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount made available under section 3303(b)(3) of the Early Childhood Education and Development of 1990 in each fiscal year, to carry out subsection (c) regarding Indian children.

"(b) STATE ALLOTMENT.—

"(1) GENERAL RULE.—From the remainder of the amount made available under section 3303(b)(3) of the Early Childhood Education and Development Act of 1990 for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of the following:

"(A) Fifty percent of the amount that bears the same ratio to such remainder as the product of the young child factor of the State and the allotment factor bears to the sum of the corresponding products for all States.

"(B) Fifty percent of the amount that bears the same ratio to such remainder as the product of the school lunch factor of the State and the allotment factor bears to the sum of the corresponding products for all the States.

"(2) LIMITATIONS.—If a sum determined under paragraph (1)—

"(A) exceeds 1.2, then the allotment factor of that State shall be considered to be 1.2; and

"(B) is less than 0.8, then the allotment percentage of the State shall be considered to be 0.8.

"(3) DETERMINATION OF ALLOTMENT FACTOR.—

"(A) IN GENERAL.—The allotment factor for a State means—

"(i) the per capita income of all individuals in the United States; divided by

"(ii) the per capita income of all individuals in the State.

"(B) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

"(i) determined at 4-year intervals;

"(ii) applied for the 4-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

"(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

"(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

"(1) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of an Indian tribe or tribal organization, enter into a contract with or make a grant to such Indian tribe or tribal organization for a period of 2 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this subchapter. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

"(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

"(d) REALLOTMENTS.—

"(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 658E, in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

"(2) LIMITATIONS.—(A) The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 658E.

"(B) The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

"(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subchapter, any amount reallotted to a State under this subsection shall be deemed to be part of the allotment made under subsection (b) to the State.

"(e) DEFINITION.—For the purposes of this section, the term 'State' means any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico.

"SEC. 658D. LEAD AGENCY.

"The chief executive officer of a State that desires to receive funds under this subchapter shall designate, in an application submitted to the Secretary under section 658E(a), a State agency to act as the lead agency to perform administrative functions to carry out this subchapter. The State agency so designated shall be the State agency that has primary responsibility for child care in the State.

"SEC. 658E. APPLICATION AND PLAN.

"(a) APPLICATION.—To be eligible to receive funds under this subchapter, a State shall submit an application to the Secretary at such time, in such manner, and containing sueh information as the Secretary may require by rule.

"(b) PLAN.—(1) The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subchapter and a State plan that is designed to be implemented during a 5-year period and that meets the requirements of subsection (c).

"(2) A State that receives funds for this subchapter after the expiration of the three-year period beginning on the date of enactment of this subchapter shall have in effect minimum child care standards that apply to child care services provided in the State by child care providers that receive public financial assistance and that are required to be licensed and regulated by the State. The standards shall consist of the following:

"(A) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

"(i) group size limits in terms of the number of caregivers and the number and ages of children;

"(ii) the maximum appropriate child-staff rations;

"(iii) qualifications and background of child care personnel;

"(iv) health, nutrition, and safety requirements for children and caregivers; and

"(v) parental involvement in licensed and regulated child care services.

"(B) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

"(i) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

"(ii) the minimum age for caregivers; and

"(iii) health, nutrition, and safety requirements for children and caregivers.

"(C) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in subparagraphs (A) and (B).

"(c) REQUIREMENTS OF THE PLAN.—

"(1) LEAD AGENCY.—(A) The plan shall identify the lead agency designated in accordance with section 658D and contain assurances that—

"(i) funds received under this subchapter by the State will be administered by the lead agency; and

"(ii) the lead agency will comply with the requirements of subparagraph (B).

"(B)(i) The lead agency shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on the date of the enactment of the Early Childhood Education and Development Act of 1990.

"(ii) Not later than 18 months after the date of the enactment of the Early Childhood Education and Development Act of 1990, the lead agency shall prepare and submit a report to the chief executive officer of the State. Such report shall contain—

"(I) a statement of the findings and recommendations that result from the review carried out under clause (i), including a description of the current status, and recommendations for improvement, of child care licensing, regulating, monitoring, and enforcement in the State; and

"(II) recommendations regarding standards that should apply to local educational agencies that receive funds under title VIII of the Elementary and Secondary Education Act of 1965 to provide child care services.

"(2) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State shall use funds received under this subchapter to do 1 or more of the following:

"(A) Provide financial assistance to establish or expand local resource and referral programs under section 658F.

"(B) Improve the quality of child care services and early childhood development programs in the State by providing training in accordance with the requirements of section 658G.

"(C) Improve the quality of child care services by improving the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

"(D) Improve salaries and other compensation paid to full- and part-time staff who provide child care services—

"(i) for which assistance is provided under the Head Start Act or title VIII of the Elementary and Secondary Education Act of 1965; and

"(ii) to the extent practicable, in other major Federal and State child care programs, except programs conducted pursuant to part A of title IV of the Social Security Act;

to the extent that such salaries and other compensation are inadequate.

"(3) OTHER ALLOWABLE ACTIVITIES.—The plan shall provide that the State may use not more than 5 percent of the funds received under this subchapter to do 1 or more of the following:

"(i) Make low-interest loans to eligible child care providers that are nonprofit child care providers and family child care providers to make renovations and improvements in existing facilities to be used to carry out child care programs.

"(ii) Make grants or low-interest loans to child care providers to assist such providers to meet Federal, State, and local child care standards, giving priority to such providers that serve children of families that have very low income.

"(iii) Make grants to local public libraries (and elementary and secondary school libraries, as appropriate) to improve the quality of early childhood learning resources and to expand the availability of such resources to eligible child care providers (particularly family child care providers) that provide child care services to preschool children, and to the preschool children and their families served by such providers.

"(iv) If funds are not appropriated to carry out title V of the Early Childhood Education and Development Act of 1990 in a fiscal year, make grants in such fiscal year to businesses for the purpose, and under the terms and conditions, specified in such title.

Amounts (including interest) received by the State for the repayment of loans made under this paragraph shall be used by the State to carry out this subchapter.

"(4) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 3 years after the date of enactment of the Early Childhood Education and Development Act of 1990, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

"(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to receive training in child development, health and safety, child abuse prevention and detection, the needs of children with a disability, program management, and relevant law enforcement;

"(B) impose personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and, to the maximum extent feasible, have inspection responsibility exclusively for children's services;

"(C) require—

"(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider in the State annually;

"(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections periodically, and during normal hours of operation, of licensed and regulated family child care providers in the State; and

"(D) require the ratio of licensing personnel to child care providers in the State to be maintained at a level sufficient to enable the State to conduct inspections of child care facilities and providers on a timely basis and otherwise to comply with the enforcement requirements of this section;

"(E) require licensed or regulated child care providers (including registered child care providers) in the State—

"(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

"(ii) to provide parents with unlimited access to their children whenever children of such parents are in the care of such providers;

"(F) implement a procedure to address complaints of parents and child care providers;

"(G) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

"(H) make consumer education information available to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

"(I) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

"(J) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

"(5) LIMITATION ON ADMINISTRATIVE EXPENSES.—The plan shall provide that not more than 2 percent of the funds received under this subchapter will be used to pay administrative costs incurred by the lead agency to carry out this subchapter.

"(6) REPORT.—The plan shall provide that not later than December 31, 1992, and at 2-year intervals thereafter, the State will submit to the Secretary a report—

"(A) specifying—

"(i) the uses for which the State expended under paragraph (2) funds received by the State; and

"(ii) with respect to each use specified under clause (i), the amount of such funds expended;

"(B) stating the reasons supporting the selection of each such use and the amount of such funds expended for each such use;

"(C) identifying the extent to which other resources of the State were expended for each of the activities described in subparagraphs (A) through (D) of such paragraph; and

"(D) containing data designed to show—

"(i) how the child care needs of families in the State are being fulfilled, including information on—

"(I) the number of children being assisted with funds provided under this subchapter, and under other State and Federal child care programs, except programs conducted pursuant to part A of title IV of the Social Security Act;

"(II) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State; and

"(III) salaries and other compensation paid to full- and part-time staff who provide child care services; and

"(ii) the extent to which the availability of child care services has increased;

during the 2-year period for which such report is required to be submitted.

"SEC. 658F. RESOURCE AND REFERRAL PROGRAMS.

"(a) RECOGNITION.—Each State that desires to provide assistance under subsection (b) shall recognize a community-based organization, a public organization, a unit of general purpose local government, or a public agency that represents a combination of units of general purpose local government as the resource and referral agency for a particular geographical area in the State.

"(b) FUNDING.—Each State that receives funds under this subchapter for a fiscal year may provide assistance, in such fiscal year, to the organizations recognized under subsection (a) to enable such organizations to carry out resource and referral programs—

"(1) to identify existing child care services;

"(2) to provide to interested parents information and referral regarding such services;

"(3) to provide or arrange for the provision of information and training to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

"(4) to provide information on the demand for and supply of child care services located in a community.

"(c) REQUIREMENTS.—To be eligible for recognition as a resource and referral agency for a designated geographical area in a State, an organization shall—

"(1) have or acquire a database of information on child care services in the geographical area that the organization continually updates, including child care services provided in centers, nursery schools, and family child care settings;

"(2) have the capability to provide resource and referral services in the designated geographical area;

"(3) be able to respond in a timely fashion to requests for information or assistance;

"(4) be a public agency, or a community-based organization, located in the geographical area to be served; and

"(5) be able to provide parents with a checklist to identify quality child care services.

"(d) DUTY.—An organization recognized under subsection (a) as a resource and referral agency shall gather, update, and provide information concerning child care services available from eligible child care providers in the geographical area served by such organization.

"(e) LIMITATION ON INFORMATION.—An organization recognized under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not licensed or regulated, and not exempted from licensing and regulation, by the State.

"SEC. 658G. TRAINING AND RELATED ACTIVITIES.

"(a) GRANTS AND CONTRACTS FOR TRAINING.—A State may make grants to and enter into contracts with public agencies, nonprofit organizations, and institutions of higher education to develop and carry out child care training programs under which preservice and continuing inservice training is provided to—

"(1) staff who provide child care services for which assistance is provided under the Head Start Act or title VIII of the Elementary and Secondary Education Act of 1965 and

"(2) staff of eligible child care providers and staff of resource and referral programs

involved in providing child care services in the State.

"(b) TRAINING AND OTHER ACTIVITIES RELATING TO FAMILY CHILD CARE ENHANCEMENT.—

"(1) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—A State may make grants to and enter into contracts with public agencies and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations) to enable such organizations to develop and carry out child care training programs under which preservice and inservice training is provided to eligible child care providers that are family child care providers.

"(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS.—To be eligible to receive a grant or enter into a contract under paragraph (1), a nonprofit organization shall—

"(A) recruit and train individuals to become family child care providers, including providers with the capacity to provide night-time child care services and emergency child care services at irregular hours (as well as emergency care for sick children);

"(B) provide ongoing training to individuals who are family child care providers, including specialized training in working with infants;

"(C) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

"(D) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

"(E) provide such other services to family child care providers in the communities of such organization as the lead agency determines to be appropriate.

"SEC. 658H. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE.

"(a) SUBSTITUTION OF FUNDS.—Funds received under—

"(1) the amendments to the Head Start Act made by the Early Childhood Education and Development Act of 1990;

"(2) title VIII of the Elementary and Secondary Education Act of 1965; or

"(3) this subchapter;

by the State may be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of the activities for which such funds are received.

"(b) EXISTING FACILITIES.—No financial assistance provided under the provisions of law specified in subsection (a) may be expended to renovate or repair any facility unless—

"(1) the child care provider that receives such financial assistance agrees—

"(A) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this subchapter, bears to the original value of the renovation or repair; and

"(B) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this subchapter;

if such provider does not provide child care services in such facility in accordance with this subchapter throughout the useful life of the renovation or repair; and

"(2) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed as a result of such provisions of law.

"SEC. 658I. FEDERAL ENFORCEMENT.

"(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E for the State.

"(b) NONCOMPLIANCE.—

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

"(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 658E for the State; or

"(B) in the operation of any program or project for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

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

"(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this sub- chapter.

"(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

"(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

"(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

"(2) imposing sanctions under this section.

"SEC. 658J. NATIONAL ADVISORY COMMITTEE ON RECOMMENDED CHILD CARE STANDARDS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of the Early Childhood Education and Development Act of 1990, the National Advisory Committee On Recommended Child Care Standards the members of which shall be appointed from among representatives of—

"(A) persons who carry out various types of child care programs;

"(B) persons who carry out resource and referral programs;

"(C) child care and early childhood development specialists;

"(D) early childhood education specialists and specialists in the education of children with a disability and children whose English language proficiency is limited as a result of their non-English language background;

"(E) individuals who have expertise in pediatric health care, nutrition, disabilities, and related fields;

"(F) organizations representing child care employees;

"(G) individuals who have experience in the regulation of child care services;

"(H) parents who have been actively involved in child care programs; and

"(I) States.

"(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 21 members of which—

"(A) 7 members shall be appointed by the President;

"(B) 4 members shall be appointed by the majority leader of the Senate;

"(C) 3 members shall be appointed by the minority leader of the Senate;

"(D) 4 members shall be appointed by the Speaker of the House of Representatives; and

"(E) 3 members shall be appointed by the minority leader of the House of Representatives.

Not less than one-third of the members of the Committee shall be appointed from among individuals described in paragraph (1)(H).

"(3) CHAIRMAN.—The Committee shall appoint a chairman from among the members of the Committee.

"(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

"(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

"(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its duties.

"(2) REIMBURSEMENT.—Members of the Committee who are not regular full-time employees of the United States Government, while away from their homes or regular places of business on the business of the Committee, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

"(c) DUTIES.—The Committee shall—

"(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

"(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed recommended standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, and preschool and school-age children; and

"(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, recommended requirements for resource and referral agencies.

"(d) RECOMMENDED CHILD CARE STANDARDS.—The proposed recommended child care standards submitted pursuant to subsection (c)(2) shall consist of only the following:

"(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

"(A) group size limits in terms of the number of caregivers and the number and ages of children;

"(B) the maximum appropriate child-staff ratios;

"(C) qualifications and background of child care personnel;

"(D) health, nutrition, and safety requirements for children and caregivers;

"(E) inservice training in areas appropriate to providing such child care services, including the minimum number of hours of such training; and

"(F) parental involvement in licensed and regulated child care services.

"(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

"(A) the maximum number of children for which child care services may be provided and the total number of infants for which child care services may be provided;

"(B) the minimum age for caregivers;

"(C) health, nutrition, and safety requirements for children and caregivers; and

"(D) inservice training in areas appropriate to providing such child care services, including the minimum number of hours of such training.

"(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

"(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

"(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the Committee, the Secretary shall—

"(A) publish in the Federal Register—

"(i) a notice of proposed rulemaking concerning the recommended standards proposed under subsection (d) to the Secretary; and

"(ii) such proposed recommended standards for public comment; and

"(B) distribute such proposed recommended standards, for comment, to each lead agency.

"(2) ESTABLISHMENT OF RECOMMENDED CHILD CARE STANDARDS.—(A) The Secretary shall, in consultation with the Committee—

"(i) take into consideration any comments received by the Secretary with respect to the recommended standards proposed under subsection (d); and

"(ii) not later than 180 days after publication of such standards, shall issue rules establishing recommended child care standards for purposes of this subchapter. Compliance with such standards shall be at the option of the States. Such standards shall include nutrition requirements.

"(B) The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

"(3) ADDITIONAL COMMENTS.—The Committee may submit to the Secretary and to the Congress such additional comments on the recommended child care standards established under paragraph (2) as the Committee considers appropriate.

"(f) TERMINATION OF COMMITTEE.—The Committee shall cease to exist 90 days after the date the Secretary establishes recommended child care standards under subsection (e)(2).

"SEC. 658K. DEFINITIONS.

"As used in this subchapter:

"(1) CENTER-BASED CHILD CARE PROVIDER.—The term 'center-based child care provider' means a child care provider that provides child care services in a nonresidential facility, and may include a nonprofit institution of higher education.

"(2) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization'—

"(A) means a private nonprofit organization that—

"(i) is representative of the community or of significant segments of the community; and

"(ii) provides child care, preschool programs, or early childhood development programs; or

"(B) has the meaning given it in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1503(5)).

"(3) DISABILITY.—The term 'disability' means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or subparagraph (A) or (B) of section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1472(1)).

"(4) EARLY CHILDHOOD LEARNING RESOURCES.—The term 'early childhood learning resources' includes books, audio and video tapes, films, educational toys and games and other materials designed principally for use by or with children who are less than 6 years of age.

"(5) ELIGIBLE CHILD CARE PROVIDER.—The term 'eligible child care provider' means—

"(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

"(i) is licensed or regulated under State law; and

"(ii) satisfies—

"(I) the Federal requirements; and

"(II) the State and local requirements; applicable to the child care services it provides; and

"(B) a child care provider who provides child care services only to an eligible child who is, by affinity or consanguinity, the grandchild of such provider if such provider satisfies the State requirements (if any) applicable to such services.

"(6) FAMILY CHILD CARE PROVIDER.—The term 'family child care provider' means 1 individual who provides child care services to any eligible child who does not reside with such individual, as the sole caregiver and in the private residence of such individual.

"(7) GROUP HOME CHILD CARE PROVIDER.—The term 'group home child care provider' means 2 or more individuals who jointly provide child care services in a private residence to any eligible child who does not reside with any of such individuals.

"(8) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given it in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

"(9) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

"(10) LEAD AGENCY.—The term 'lead agency' means the agency designated under section 659D.

"(11) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

"(12) PUBLIC LIBRARY.—The term 'local public library' has the meaning given that term in section 3(5) of the Library Services and Construction Act.

"(13) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' includes an Indian tribe and a tribal organization.

"(14) NON-ENGLISH LANGUAGE BACKGROUND.—The term 'non-English language background' means the experience of living in a home in which the primary language spoken is not English.

"(15) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(16) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(17) STAFF.—The term 'staff' means an individual who provides a service directly to an eligible child on a person-to-person basis.

"(18) STATE.—The term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

"(19) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given it in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

"(20) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term 'unit of general purpose local government' means a city, county, town, parish, village, or other general purpose political subdivision of a State.".

PART 4—BUSINESS INVOLVEMENT IN MEETING EMPLOYEE CHILD CARE NEEDS

SEC. 3341. ESTABLISHMENT OF GRANT PROGRAM.

The Secretary of Health and Human Services shall establish a program to make grants to eligible businesses—

(1) to pay start-up costs incurred to provide child care services; or

(2) to provide additional child care services;

needed by the employees of such businesses.

SEC. 3342. ELIGIBLE BUSINESSES.

To be eligible to receive a grant under section 3341, a business shall submit to the Secretary an application in accordance with section 3343.

SEC. 3343. APPLICATION.

The application required by section 3342 shall be submitted by a business or consortium at such time, in such form, and containing such information as the Secretary may require by rule, except that such application shall contain—

(1) an assurance that such business shall expend, for the purpose for which such grant is made, an amount not less than 200 percent of the amount of such grant;

(2) an assurance that such business will expend such grant for the use specified in section 3341, as the case may be;

(3) an assurance that if the employees of such business do not require all the child care services for which such grant and the funds required by paragraph (1) are to be expended by such business, the excess of such child care services shall be made available to families in the community in which such business is located;

(4) an assurance that such business will employ strategies to provide such child care services at affordable rates, and on an equitable basis, to low- and moderate-income employees; and

(5) an assurance that the provider of such child care services will comply with all State and local licensing requirements applicable to such provider.

SEC. 3344. SELECTION OF GRANTEES.

For purposes of selecting eligible businesses to receive grants under this part, the Secretary shall give priority to businesses that have fewer than 100 full-time employees. To the extent practicable, the Secretary shall make grants equitably under this part to businesses located in all geographical regions of the United States.

SEC. 3345. DEFINITIONS.

As used in this part:

(1) BUSINESS.—The term "business" means a person engaged in commerce whose primary activity is not providing child care services.

(2) CHILD CARE SERVICES.—The term "child care services" means care for a child that is—

(A) provided on the site at which a parent of such child is employed or at a site nearby in the community; and

(B) subsidized at least in part by the business that employs such parent.

(3) CONSORTIUM.—The term "consortium" means 2 or more businesses acting jointly.

(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

SEC. 3346. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $25,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out this part.

Subtitle E—Government-Sponsored Entities

SEC. 3401. CREDIT ACTIVITIES OF GOVERNMENT AGENCIES AND INSTRUMENTALITIES.

(a) IN GENERAL.—Any provision of this Act and any amendment made by this Act to chapter 31 of title 31, United States Code, or any other provision of law, which would have the effect of restricting the authority of any corporation owned in whole or in part by the Federal Government, or privately owned government-sponsored enterprises, such as the Student Loan Marketing Association, the College Construction Loan Insurance Association, and the Pension Benefit Guaranty Corporation, from borrowing from or issuing obligations to any person other than the Secretary of the Treasury or guaranteeing any obligation issued by any person shall not take effect.

(b) CERTAIN ACTIONS PROHIBITED.—Notwithstanding any other provision of this Act or any amendment made by this Act to any other provision of law, no officer or employee of the United States may take any action which would have the effect of implementing any provision of, or any amendment made by, this Act which is described in subsection (a).

(c) VIOLATION TREATED AS VIOLATION OF ANTIDEFICIENCY ACT.—Any violation of subsection (b) shall be treated as a violation of section 1341(a) of title 31, United States Code.

TITLE IV—COMMITTEE ON ENERGY AND COMMERCE

TABLE OF CONTENTS

SEC. 4001. CERTAIN OVERVALUED PROCEDURES.

(a) IN GENERAL.—Section 1842(b)(14) of the Social Security Act (42 U.S.C. 1395u(b)(14)) is amended—

(1) by inserting "(i)" after "(14)(A)";

(2) by adding at the end of subparagraph (A) the following new clause:

"(ii) In determining the reasonable charge for a physicians' service specified in subparagraph (C)(i) and furnished during 1991, the prevailing charge for such service shall not exceed the prevailing charge otherwise recognized for such service for the period during 1990 beginning on April 1, reduced by 15 percent or, if less, ⅓ of the percent (if any) by which the prevailing charge otherwise recognized for the locality in that year exceeds the locally-adjusted reduced prevailing amount (as determined under subparagraph (B)(i)) for the service.";

(3) in subparagraph (B)(i)(II), by inserting "or (iv)" after "clause (iii)";

(4) in subparagraph (B)(iii), by inserting "for services furnished during the 9-month period beginning on April 1, 1990" after "locality" the first place it appears;

(5) by adding at the end of subparagraph (B) the following new clause:

"(iv) The 'adjustment factor', for a physicians' service for a locality furnished in 1991, is the sum of—

"(I) the practice component percent (referred to as practice expense ratio), divided by 100, specified in appendix A (pages 187 through 194) of the Report of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1989, prepared by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives, (Committee Print 101-M, 101st Congress, 1st Session) for the service, multiplied by the geographic practice cost index (specified in subparagraph (C)(v)) for the locality, and

"(II) 1 minus the practice component percent, multiplied by the geographic physician work adjustment index value (specified in subparagraph (C)(vi)) for the locality.";

(6) by adding at the end of subparagraph (C)(ii), the following new sentence: "In computing the national weighted average in the previous sentence in applying this paragraph to services furnished in 1991, the prevailing charge in each locality shall first be deflated by the adjustment factor specified in subparagraph (B)(iv).";" and

(7) by adding at the end of subparagraph (C) the following new clauses:

"(v) The geographic practice cost index value specified in this clause for a locality is the Geographic Overhead Costs Index specified for the locality in table 1 of the August 1990 Supplement to the Geographic Medicare Economic Index: Alternative Approaches (prepared by the Urban Institute and the Center for Health Economics Research).

"(vi) The geographic physician work adjustment index value specified in this clause for a locality is the Geographic ¼ Work Index specified for the locality in the table 1 referred to in clause (v).".

SEC. 4002. RADIOLOGY SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1834(b)(4) of the Social Security Act (42 U.S.C. 1395m(b)(4)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and

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

"(D) 1991 FEE SCHEDULES.—For radiologist services (other than portable X-ray services) furnished under this part during 1991, the conversion factors used in a locality under this subsection shall be determined as follows:

"(i) NATIONAL WEIGHTED AVERAGE CONVERSION FACTOR.—The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for services furnished during 1990 beginning on April 1, using the best available data. In computing the national weighted average in the previous sentence, the conversion factor in each locality shall first be deflated by the sum specified in clause (iv).

"(ii) REDUCED NATIONAL WEIGHTED AVERAGE.—The national weighted average estimated under clause (i) shall be reduced by 11 percent.

"(iii) GEOGRAPHIC INDICES.—

"(I) 1990 LOCALITY INDEX RELATIVE TO NATIONAL AVERAGE.—The Secretary shall establish an index which reflects, for each locality, the ratio of the conversion factor used in the locality under this subsection to the national weighted average estimated under clause (i).

"(II) FEE SCHEDULE GEOGRAPHIC INDEX.—The Secretary shall establish an index value, for each locality, equal to the geographic adjustment factor which would be established for the locality under section 1848(e)(2) if—

"(a) the work, overhead, and malpractice geographic practice cost indices contained in Addendum C to the Model Fee Schedule for Physicians' Services (published on September 4, 1990, 55 Federal Register pp. 36238.-36243) were used as the geographic physician work adjustment factor value, the geographic cost-of-practice index value, and the geographic malpractice index value, respectively, and

"(b) the proportions of the total relative value for the work component, practice expense component, and the malpractice component were the work, overhead, and malpractice percents, respectively, specified for the specialty of radiology in Table 2.1 of such Model Fee Schedule (55 F.R. 36188).

"(iv) LOCAL ADJUSTMENT.—Subject to clause (v), the conversion factor to be applied in a locality is the national weighted average conversion factor (estimated under clause (i)), reduced under clause (ii), multiplied by the sum of—

"(I) ¾ of the index value established under clause (iii)(I) for the locality, and

"(II) ¼ of the index value established under clause (iii)(II) for the locality.

"(v) MAXIMUM REDUCTION.—The conversion factor to be applied to a locality under this subparagraph shall not be less than 92 percent of the conversion factor applied in the locality under subparagraph (C).".

(b) CONTINUING PHASE-IN OF GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(2) of such Act (42 U.S.C. 1395w-4(e)(2)) is amended by adding at the end the following: "In the case of radiology services described in subsection (b)(2)(A), the geographic adjustment factor for—

"(A) 1992, shall be ½ of the index value established under section 1834(b)(4)(D)(iii)(I) for the locality plus ½ of the geographic adjustment factor determined under the previous sentence, and

"(B) 1993, shall be ¼ of the index value established under section 1834(b)(4)(D)(iii)(I) for the locality plus ¾ of the geographic adjustment factor determined under the previous sentence.".

(c) NONAPPLICATION OF COMPARABILITY PROVISIONS.—Section 1834(b)(3) of such Act (42 U.S.C. 1395m(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

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

"(C) shall not apply section 1842(b)(3)(B) insofar as it relates to requiring carriers to restrict payment to the charge applicable, for a comparable service and under comparable circumstances, to policyholders and subscribers of the carrier.".

(d) USE OF LOCALITIES.—Section 1834(b)(1)(B) of such Act (42 U.S.C. 1395m(b)(1)(B)) is amended by inserting "locality," after "statewide,".

(e) CONTINUATION OF SPECIAL RULE FOR NUCLEAR MEDICINE PHYSICIANS.—Section 6105(b) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking all that follows "Social Security Act" the second place it appears and inserting the following: "beginning April 1, 1990, and ending December 31, 1991, there shall be substituted for the fee schedule otherwise applicable a fee schedule based ⅓ on the fee schedule computed under such section (without regard to this subsection) and ⅔ on 101 percent of the 1988 prevailing charge for such services.".

(f) EXTENSION OF SPLIT BILLING RULE FOR INTERVENTIONAL RADIOLOGISTS.—Section 6105(c) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "or 1991" after "1990" each place it appears.

(g) EFFECTIVE DATES.—

(1) Except as otherwise provided, the amendments made by this section shall apply to services furnished on or after January 1, 1991.

(2) The amendment made by subsection (d) shall apply to services performed on o after April 1, 1989.

SEC. 4003. ANESTHESIA SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1842(q)(1) of the Social Security Act (42 U.S.C. 1395u(q)(1)) is amended—

(1) by inserting "(A)" after "(q)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) For physician anesthesia services furnished under this part during 1991, the conversion factor used in a locality under this subsection shall be determined as follows:

"(i) The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for services furnished during 1990 beginning on April 1, using the best available data. In computing the national weighted average in the previous sentence, the conversion factor in each locality shall first be deflated by the sum specified in clause (iv).

"(ii) The national weighted average estimated under clause (i) shall be reduced by 7 percent.

"(iii)(I) The Secretary shall establish an index which reflects, for each locality, the ratio of the conversion factor used in the locality under this subsection for services furnished under this part during 1990 beginning on April 1 to the national weighted average estimated under clause (i).

"(II) The Secretary shall establish an index value, for each locality, equal to the geographic adjustment factor which would be established for the locality under section 1848(e)(2) if—

"(a) the work, overhead, and malpractice geographic practice cost indices contained in Addendum C to the Model Fee Schedule for Physicians' Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243) were used as the geographic physician work adjustment factor value, the geographic cost-of-practice index value, and the geographic malpractice index value, respectively, and

"(b) the proportions of the total relative value for the work component, practice expense component, and the malpractice component were 55.9 percent, 33.4 percent, and 10.7 percent, respectively.

"(iv) Subject to clause (v), the conversion factor to be applied in a locality is the national weighted average conversion factor (estimated under clause (i)) reduced under clause (ii) multiplied by the sum of—

"(I) ½ of the index value established under clause (iii)(I) for the locality, and

"(II) ½ of the index value established under clause (iii)(II).

"(v) The conversion factor to be applied to a locality under this subparagraph shall not be less than 85 percent of the conversion factor applied in the locality during 1990 beginning on April 1.".

(c) EXTENSION OF REDUCTION FOR SUPERVISION OF CONCURRENT SERVICES.—Section 1842(b)(13) of such Act (42 U.S.C. 1395u(b)(13)) is amended by striking "1991" each place it appears and inserting "1996".

SEC. 4004. PHYSICIAN PATHOLOGY SERVICES.

(a) REDUCTION IN PAYMENTS FOR PHYSICIAN PATHOLOGY SERVICES.—Subsection (f) of section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended to read as follows:

"(f) REDUCTION IN PAYMENTS FOR PHYSICIAN PATHOLOGY SERVICES DURING FISCAL YEAR 1991.—For physician pathology services furnished under this part during 1991, the prevailing charges used in a locality under this part shall be 93 percent of the prevailing charges used in the locality under this part in 1990 beginning on April 1, 1990.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(1)(J) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking "or physician pathology services" and by striking "or section 1834(f), respectively".

(2) Section 1848(a)(1) of such Act (42 U.S.C. 1395w-4(a)(1)) is amended by striking "or 1834(f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 4005. PREVAILING CHARGES FOR MISCELLANEOUS PROCEDURES.

Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(16)(A) In determining the reasonable charge for physicians' services described in subparagraph (B) furnished during 1991, the prevailing charge otherwise recognized for a locality shall be reduced by 2 percent, or, in the case of surgical procedures which are paid for under this part on a global basis (including preoperative and postoperative services), 4 percent.

"(B) For purposes of this subparagraph, the physcians' service specified in this subparagraph are all physicians' services except the following:

"(i) Radiology, anesthesia, and physician pathology services, and physicians' services specified in clause (i) of paragraph (14)(C).

"(ii) Primary care services (specified in subsection (i)(4)), hospital inpatient medical services, consulations, preventive medicine visits, emergency care facility services, and critical care services.

"(iii) The procedure codes specified in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 5835 (the 'Omnibus Budget Reconciliation Act of 1990') for tendon sheath injections and small joint arthrocentesis, femoral fracture and trochanteric fracture treatments, endotracheal intubation, thoracentesis, thoracostomy, and transurerethral fulguration and resection.".

SEC. 4006. UPDATE FOR PHYSICIANS' SERVICES.

(a) PERCENTAGE INCREASE IN MEI FOR 1991 DURING 1991.—Section 1842(b)(4)(E) of the Social Security Act (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

"(v) For purposes of this part for items and services furnished in 1991, the percentage increase in the MEI is—

"(I) 0 percent for services (other than primary care services), and

"(II) such percentage increase in the MEI (as defined in subsection (i)(3)) as would be otherwise determined for primary care services (as defined in subsection (i)(4)).".

(b) INCREASE IN PREVAILING CHARGE FLOOR FOR PRIMARY CARE SERVICES.—

(1) IN GENERAL.—Section 1842(b)(4)(A)(vi) of such Act (42 U.S.C. 1395u(b)(4)(A)(vi)) is amended by striking "50 percent" and inserting "75 percent".

(2) USE IN TRANSITION TO FULL FEE SCHEDULE.—Section 1848(a)(2)(D) of such Act (42 U.S.C. 1395w-4(a)(2)(D)) is amended by adding at the end the following new clause:

"(iii) APPLICATION TO PRIMARY CHARGE FLOOR.—In the case of services described in section 1842(b)(4)(A)(vi), the adjusted historical payment basis shall be determined as if '50 percent' were substituted for '75 percent' in such section; except that in no case shall the application of this clause result in the establishment of a fee schedule amount which is less than the prevailing charge level determined under such section for services furnished in 1991."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 4007. NEW PHYSICIANS AND OTHER NEW HEALTH CARE PRACTITIONERS.

(a) IN GENERAL.—Subparagraph (F) of section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended to read as follows:

"(F)(i) In the case of physicians' services and professional services of a health care practitioner (other than primary care services and other than services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area) furnished during the physician's or practitioner's first through fourth years of practice (if payment for those services is made separately under this part and on other than a cost-related basis), the prevailing charge or fee schedule amount to be applied under this part shall be 80 percent for the first year of practice, 85 percent for the second year of practice, 90 percent for the third year of practice, and 95 percent for the fourth year of practice, of the prevailing charge or fee schedule amount for that service under the other provisions of this part.

"(ii) For purposes of clause (i):

"(I) The term 'health care practitioner' means a physician assistant, certified nurse-midwife, qualified psychologist, nurse practitioner, clinical social worker, physical therapist, occupational therapist, respiratory therapist, certified registered nurse anesthetist, or any other practitioner as may be specified by the Secretary.

"(II) The term 'first year of practice' means, with respect to a physician or practitioner, the first year during the first 6 months of which the physician or practitioner furnishes professional services for which payment is made under this part, and includes any period before such year.

"(III) The terms 'second year of practice', 'third year of practice', and 'fourth year of practice' mean the second, third, and fourth years, respectively, following the first year of practice.".

(b) CONFORMING AMENDMENT.—Section 1848(a)(1)(B) of such Act (42 U.S.C. 1395w-4(a)(1)(B)) is amended by inserting "and section 1842(b)(4)(F)" after "of this section".

(c) CONFORMING ADJUSTMENT IN CONVERSION FACTOR COMPUTATION.—In computing the conversion factor under section 1848(d)(1)(B) for 1992, the Secretary of Health and Human Services shall determine the estimated aggregate amount of payments under part B for physicians' services in 1991 assuming that the amendments made by this section (notwithstanding subsection (d)) applied to all services furnished during such year.

(d) EFFECTIVE DATE.—The amendments made by this section apply to services furnished after 1990, except that—

(1) the provisions concerning the third and fourth years of practice apply only to physicians' services furnished after 1991 and 1992, respectively, and

(2) the provisions concerning the second, third, and fourth years of practice apply only to services of a health care practitioner furnished after 1991, 1992, and 1993, respectively.

SEC. 4008. TECHNICAL COMPONENTS OF CERTAIN DIAGNOSTIC TESTS.

(a) IN GENERAL.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)), as amended by sections 4005, is further amended by adding at the end the following new paragraph:

"(17) With respect to payment under this part for the technical (as distinct from professional) component of diagnostic tests (other than clinical diagnostic laboratory tests and radiology services), the reasonable charge (or other payment basis) may not exceed the national median of such charges

(or payment bases) for such tests or services.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to tests and services furnished on or after January 1, 1991.

SEC. 4009. RECIPROCAL BILLING ARRANGEMENTS.

(a) IN GENERAL.—The first sentence of section 1842(b)(6) of the Social Security Act (42 U.S.C. 1395u(b)(6)) is amended—

(1) by striking "and" before "(C)", and

(2) by inserting before the period at the end the following: ", and (D) payment may be made to a physician who arranges for visit services (including emergency visits and related services) to be provided to an individual by a second physician on an occasional, reciprocal basis if (i) the first physician is unavailable to provide the visit services, (ii) the individual has arranged or seeks to receive the visit services from the first physician, (iii) the claim form submitted to the carrier includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim is for such a 'covered visit service (and related services)', and (iv) the visit services are not provided by the second physician over a continuous period of longer than 30 days".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 4010. AGGREGATION RULE FOR CLAIMS FOR SIMILAR PHYSICIANS' SERVICES.

(a) IN GENERAL.—The second sentence of section 1869(b)(2) of the Social Security Act (42 U.S.C. 1395ff(b)(2)) is amended—

(1) by inserting "for services furnished during the same 12-month period" after "two or more claims",

(2) by inserting "(i)" after "if",

(3) by striking "or involve" and inserting ", (ii) the claims involve", and

(4) by inserting before the period at the end the following: "by the same entity, or (iii) the claims involve common issues of law and fact arising from physicians' services furnished in the same fee schedule area (as defined in section 1848(j)(2)) to two or more individuals by two or more physicians and the aggregate amount in controversy is at least $1,000 (in the case of a hearing under paragraph (1)(C) or (1)(D)) or $2,500 (in the case of judicial review)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to physicians' services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 4011. PRACTICING PHYSICIANS ADVISORY COUNCIL.

Title XVIII of the Social Security Act is amended by inserting after section 1867 the following new section:

"PRACTICING PHYSICIANS ADVISORY COUNCIL

"SEC. 1868. (a) The Secretary shall appoint, based upon nominations submitted by medical organizations representing physicians, a Practicing Physicians Advisory Council (in this section referred to as the 'Council') to be composed of 15 physicians, each of whom has submitted at least 250 claims for physicians' services under this title in the previous year. At least 11 of the members of the Council shall be physicians described in section 1861(r)(1) and the members of the Council shall include both participating and nonparticipating physicians and physicians practicing in rural areas and underserved urban areas.

"(b) The Secretary shall consult with the Council concerning proposed changes in regulations and carrier manual instructions. To the extent feasible and consistent with statutory deadlines, such consultation shall occur before the publication of such proposed changes.

"(c) The Council shall meet once during each calendar quarter.

"(d) Members of the Council shall be entitled to receive reimbursement of expenses and per diem in lieu of subsistence in the same manner as other members of advisory councils appointed by the Secretary are provided such reimbursement and per diem under this title.".

SEC. 4012. RELEASE OF MEDICAL REVIEW SCREENS AND ASSOCIATED SCREENING PARAMETERS.

(a) CARRIERS.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)), as amended by section [4041(a)(3)], is amended—

(1) by striking "and" at the end of subparagraph (H),

(2) by adding "and" at the end of subparagraph (I), and

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) if it makes determinations or payments with respect to physicians' services, before sending a notice of denial of payment under this part for such services by reason of section 1862(a)(1) because a service otherwise covered under this title is not reasonable and necessary under the standards described in this section, the carrier has made available to the public the medical review screens, the associated screening parameters, and the criteria upon which the denial of payment may be made;".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to notices of denial sent on or after January 1, 1991.

SEC. 4013. TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES.—

(1) Section 1842(b)(14) of the Social Security Act (42 U.S.C. 1395u(b)(14)) is amended—

(A) in subparagraph (B)(iii)(I), by striking "practice expense ratio for the service (specified in table #1 in the Joint Explanatory Statement referred to in subparagraph (C)(i))" and inserting "practice component percent (referred to as practice expense ratio), divided by 100, specified in appendix A (pages 187 through 194) of the Report of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1989, prepared by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives, (Committee Print 101-M, 101st Congress, 1st Session) for the service";

(B) in subparagraph (B)(iii)(II), by striking "practice expense ratio" and inserting "practice component percent, divided by 100";

(C) in subparagraph (C)(i), by striking "physicians' services specified in table #2 in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 3299 (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress," and inserting "procedures specified (by code and description) in the Overvalued Procedures List for Finance Committee, Revised September 20, 1989, prepared by the Physician Payment Review Commission";

(D) in subparagraph (C)(iii), by striking "The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in table #2 in the Joint Explanatory Statement" and inserting "The 'percentage change' specified in this clause, for a physicians' service specified in clause (i), is the percent difference (but expressed as a positive number) specified for the service in the list"; and

(E) in subparagraph (C)(iv), by striking "such value specified for the locality in table #3 in the Joint Explanatory Statement referred to in clause (i)" and inserting "the Geographic Overhead Costs Index specified for the locality in table 1 of the September 1989 Supplement to the Geographic Medicare Economic Index: Alternative Approaches (prepared by the Urban Institute and the Center for Health Economics Research)".

(2) Section 1842(b)(4)(E)(iv)(I) of such Act (42 U.S.C. 1395u(b)(4)(E)(iv)(I)) is amended by striking "Table #2" and all that follows through "101st Congress" and inserting "the list referred to in paragraph (14)(C)(i)".

(3) The amendments made by paragraphs (1) and (2) apply to services furnished after March 1990.

(b) MISCELLANEOUS FEE SCHEDULE CORRECTIONS.—

(1) CHANGES IN SECTION 1848.—Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended—

(A) in subsection (a)(2)(D)(ii), by inserting "the weighted average of (I) such weighted average prevailing charge, and (II) " after "weighted average prevailing charge";

(B) in subsection (c)(1)(B), by striking the last sentence;

(C) in subsections (c)(3)(C)(ii)(II) and (c)(3)(C)(iii)(II), by striking "by" the first place it appears in each respective subsection,

(D) in subsection (c), by redesignating the second paragraph (3), and paragraphs (4) and (5), as paragraphs (4) through (6), respectively;

(E) in subsection (c)(4), as redesignated by subparagraph (C), is amended by striking "subsection" and inserting "section";

(F) in subsection (d)(1)(A), by striking "subparagraph (C)" and inserting "paragraph (3)";

(G) in the last sentence of subsection (d)(2)(A), by striking "proportion of HMO enrollees" and inserting "proportion of individuals who are enrolled under this part who are HMO enrollees";

(H) in subsection (d)(2)(E)(i), by inserting "the" after "as set forth in";

(I) in subsection (d)(2)(E)(ii)(I), by inserting "payments for" after "under this part for";

(J) in subsection (d)(3)(B)(ii)—

(i) by inserting "more than" after "decrease of", and

(ii) in subclause (I), by striking "more than";

(I) in paragraphs (1)(D)(i) and (2)(A)(i) of subsection (f), by striking "calendar years" and inserting "portions of calendar years";

(K) in subsection (f)(2)(A)—

(i) by striking "each performance standard rate of increase" and inserting "the performance standard rate of increase, for all physicians' services and for each category of physicians' services,",

(ii) in clause (i), by striking "physicians' services (as defined in subsection (f)(5)(A)" and inserting "all physicians' services or for the category of physicians' services, respectively,",

(iii) in clause (iii), by striking "physicians' services" and inserting "all physicians' services or of the category of physicians' services, respectively,", and

(iv) in clause (iv), by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "all physicians' services or of the category of physicians' services, respectively,";

(L) in subsection (f)(4)(A), by striking "paragraph (B)" and inserting "subparagraph (B)";

(M) in subparagraphs (A) and (B) of subsection (g)(2), by inserting "other than radiologist services subject to section 1834(b)," after "during 1991," and after "during 1992,", respectively; and

(N) in subsection (l)(1)(A), by striking "historical payment basis (as defined in subsection (a)(2)(C)(i))" and inserting "adjusted historical payment basis (as defined in subsection (a)(2)(D)(i))".

(2) MISCELLANEOUS.—

(A) Effective as if included in the Omnibus Budget Reconciliation Act of 1989, section 6102(e)(4) of such Act is amended by inserting "determined" after "prevailing charge rate".

(B) Effective January 1, 1991, section 1842(b)(3)(G) of the Social Security Act, as amended by section 6102(e)(2) of Omnibus Budget Reconciliation Act of 1989, is amended by striking "subsection (j)(1)(C)" and inserting "section 1848(g)(2)".

(C) Section 1842(b)(12)(A)(ii)(II) of the Social Security Act, as amended by section 6102(e)(4) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking ", as the case may be".

(D) Section 1833(a)(1)(H) of the Social Security Act, as amended by section 6102(e)(5) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking ", as the case may be".

(E) Section 6102(e)(11) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "of Health and Human Services" after "Secretary".

(F) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 922(d)(1) of the Public Health Service Act (42 U.S.C. 299c-1(d)(1)) is amended—

(i) by inserting "(other than of dissemination activities)" after "evaluations", and

(ii) by inserting "research, demonstration projects, or evaluations of" after "applications with respect to".

(c) REPEAL OF REPORTS NO LONGER REQUIRED.—

(1) Subsection (b) of section 4043 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

(2) Subsection (c) of section 4048 of such Act is repealed.

(3) Section 4049(b)(1) of such Act is amended by striking ", and shall report" and all that follows up to the period at the end.

(4) Subsection (d) of section 4050 of such Act is repealed.

(5) Section 4056(a)(1) of such Act, as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking the last sentence.

(6) Section 4056(b)(2) of such Act is amended by striking the second sentence.

(d) ADJUSTMENT OF EFFECTIVE DATES.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987—

(1) section 4048(b) of such Act is amended by striking "January 1, 1989" and inserting "March 1, 1989", and

(2) section 4049(b)(2) of such Act is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(e) TRANSFER OF PROVISION INTO TITLE XVIII.—

(1) Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(r) The Secretary shall establish a system which provides for a unique identifier for each physician who furnishes services for which payment may be made under this title.".

(2) Section 9202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking subsection (g).

Subpart B—Payment for Other Items and Services

SEC. 4021. HOSPITAL OUTPATIENT SERVICES.

(a) CONTINUATION OF REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—Section 1861(v)(1)(S)(ii)(I) of the Social Security Act (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by inserting before the period at the end the following: ", by 10 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1991 or 1992, by 7.5 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1993 or 1994, and by 5 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1995".

(b) REDUCTION IN AMOUNT OF PAYMENTS OTHERWISE DETERMINED.—

(1) IN GENERAL.—Section 1833(a)(2)(B)(i)(I) of such Act (42 U.S.C. 1395l(a)(2)(B)(i)(I)) is amended by striking "services," and inserting "services (or, in the case of services furnished during portions of cost reporting periods beginning on or after October 1, 1990, other than services furnished by a hospital receiving an additional payment under section 1886(d)(5)(F) during such cost reporting period, 95 percent of the reasonable cost of such services),".

(2) STANDARD OVERHEAD AMOUNTS FOR AMBULATORY SURGICAL CENTERS.—Section 1833(i)(3)(B) of such Act (42 U.S.C. 1395l(i)(3)(B)) is amended by inserting after clause (ii) the following new clause:

"(iii) In determining the amount described in clause (i)(II) with respect to facility services furnished during portions of cost reporting periods beginning on or after October 1, 1990 (other than services furnished by a hospital receiving an additional payment under section 1886(d)(5)(F) during such cost reporting period), the Secretary shall reduce the standard overhead amount by 2.5 percent.".

(c) PAYMENTS FOR AMBULATORY SURGICAL PROCEDURES.—

(1) 2-YEAR FREEZE IN ALLOWANCE FOR INTRAOCULAR LENSES.—Notwithstanding section 1833(i)(2)(A)(iii) of the Social Security Act, the amount of payment determined under such section for an intraocular lens inserted during or subsequent to cataract surgery furnished to an individual in an ambulatory surgical center on or after January 1, 1991, and on or before December 31, 1992, shall be equal to $200.

(2) DETERMINATION OF FEE SCHEDULES ON BASIS OF SURVEY OF COSTS.—Section 1833(i)(2)(A)(i) of such Act (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures) taken not later than July 1, 1992, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(3) PROVIDING FOR REGULAR UPDATES TO FEE SCHEDULES.—Section 1833(i)(2) of such Act (42 U.S.C. 1395l(i)(2)) is amended—

(A) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(B) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished in a year, such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the preceding year.".

(4) EXPANSION OF PROCEDURES IN CONSULTATION WITH TRADE ORGANIZATIONS.—The second sentence of section 1833(i)(1) of such Act (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(5) EFFECTIVE DATE.—The amendments made by paragraph (2) shall take effect July 1, 1991.

SEC. 4022. DURABLE MEDICAL EQUIPMENT.

(a) ADDITIONAL 15 PERCENT REDUCTION IN PAYMENTS FOR SEAT-LIFT CHAIRS AND TRANSCUTANEOUS ELECTRICAL NERVE STIMULATORS.—Section 1834(a)(1)(D) of the Social Security Act (42 U.S.C. 1395m(a)(1)(D)) is amended by inserting before the period at the end the following: ", and, if furnished on or after January 1, 1991, the Secretary shall further reduce such payment amount (as previously reduced) by 15 percent".

(b) DEVELOPMENT AND APPLICATION OF NATIONAL LIMITS ON FEES.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2) and (3) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended—

(A) in subparagraph (B)(i), by striking "or" at the end;

(B) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) in 1991 is the sum of (I) 67 percent of the local payment amount for the item or device computed under subparagraph (C)(i)(I) for 1991, and (II) 33 percent of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1991;

"(iii) in 1992 is the sum of (I) 33 percent of the local payment amount for the item or device computed under subparagraph (C)(i)(II) for 1992, and (II) 67 percent of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1992; and

"(iv) in 1993 and each subsequent year is the national limited payment amount for the item or device computed under subparagraph (C)(ii) for that year."; and

(C) by adding at the end the following new subparagraph:

"(C) COMPUTATION OF LOCAL PAYMENT AMOUNT AND NATIONAL LIMITED PAYMENT AMOUNT.—For purposes of subparagraph (B)—

"(i) the local payment amount for an item or device for a year is equal to—

"(I) for 1991, the amount specified in subparagraph (B)(i) for 1990 increased by the covered item increase for 1991, and

"(II) for 1992, the amount determined under this clause for the preceding year increased by the covered item increase for 1992; and

"(ii) the national limited payment amount for an item or device for a year is equal to—

"(I) for 1991 and 1992, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the weighted average of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the weighted average of all local payment amounts determined under such clause for such item, and

"(II) for each subsequent year, the amount determined under this clause for

the preceding year increased by the covered item increase for such subsequent year.".

(2) MISCELLANEOUS ITEMS AND OTHER COVERED ITEMS.—Section 1834(a)(8) of such Act (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)—

(i) by striking "or" at the end of subclause (I);

(ii) in subclause (II)—

(I) by striking "1991 or", and

(II) by striking "the percentage increase" and all that follows through the period and inserting "the covered item increase for the year.";

(iii) by redesignating subclause (II) as subclause (III); and

(iv) by inserting after subclause (I) the following new subclause:

"(II) in 1991, equal to the local purchase price computed under this clause for the previous year, increased by the covered item increase for 1991, and decreased by the percentage by which the average of the purchase prices submitted exceeds the average of the reasonable charges on claims paid for the item during the 6-month period ending with December 1986; or";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

"(i) for 1991 and 1992, equal to the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year increased by the covered item increase for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional purchase price" each place it appears and inserting "national limited purchase price",

(ii) by striking "and subject to subparagraph (D)",

(iii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iv) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33"; and

(II) in subclause (II), by striking "50" and inserting "67"; and

(D) by striking subparagraph (D).

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) of such Act (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "the percentage increase" and all that follows through the period and inserting "the covered item increase for the year.";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in a year, the Secretary shall compute a national limited monthly payment rate equal to—

"(i) for 1991 and 1992, the local monthly payment rate computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year increased by the covered item increase for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional monthly payment rate" each place it appears and inserting "national limited monthly payment rate",

(ii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iii) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33"; and

(II) in subclause (II), by striking "50" and inserting "67"; and

(D) by striking subparagraph (D).

(4) DEFINITION.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(14) COVERED ITEM INCREASE.—In this subsection, the term 'covered item increase' means, with respect to a year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.".

(5) DELAY IN ADJUSTMENTS FOR INHERENT REASONABLENESS.—Section 1834(a)(10)(B) of such Act (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "1991" and inserting "1992".

(6) CONFORMING AMENDMENT.—Section 1834(a)(12) of such Act (42 U.S.C. 1395m(a)(12)) is amended by striking "defined for purposes of paragraphs (8)(B) and (9)(B)".

(c) TREATMENT OF "RENTAL CAP" ITEMS.—

(1) LIMITATION ON MONTHLY RECOGNIZED RENTAL AMOUNTS FOR MISCELLANEOUS ITEMS.—Section 1834(a)(7)(A)(i) of such Act (42 U.S.C. 1395m(a)(7)(A)(i)) is amended—

(A) by striking "for each such month" and inserting "for each of the first 3 months of such period"; and

(B) by striking the semicolon at the end and inserting the following: ", and for each of the remaining months of such period is 7.5 percent of such purchase price;".

(2) OFFER OF OPTION TO PURCHASE FOR MISCELLANEOUS ITEMS; ESTABLISHMENT OF REASONABLE LIFETIME.—Section 1834(a)(7) of such Act (42 U.S.C. 1395m(a)(7)(A)) is amended—

(A) in subparagraph (A)(i), by striking "15 months" and inserting "15 months, or, in the case of an item for which a purchase agreement has been entered into under clause (ii), a period of continuous use of longer than 13 months";

(B) in subparagraph (A)(ii)—

(i) by striking "(ii) during the succeeding 6-month period of medical need," and inserting "(iii) in the case of an item for which a purchase agreement has not been entered into under clause (ii), during the first 6-month period of medical need that follows the period of medical need during which payment is made under clause (i),", and

(ii) by striking "and" at the end;

(C) in subparagraph (A)(iii)—

(i) by striking "(iii)" and inserting "(iv) in the case of an item for which a purchase agreement has not been entered into under clause (ii),", and

(ii) by striking the period at the end and inserting "; and";

(D) by inserting after clause (i) of subparagraph (A) the following new clause:

"(ii) during the 9th continuous month during which payment is made for the rental of an item under clause (i), the supplier of such item shall offer the individual patient the option to enter into a purchase agreement under which, if the patient notifies the supplier not later than 1 month after the supplier makes such offer that the patient agrees to accept such offer and exercise such option—

"(I) the supplier shall transfer title to the item to the individual patient on the first day that begins after the 13th continuous month during which payment is made for the rental of the item under clause (i), and

"(II) after the supplier transfers title to the item under subclause (I), maintenance and servicing payments shall be made in accordance with clause (v);";

(E) by adding at the end of subparagraph (A) the following new clause:

"(v) in the case of an item for which a purchase agreement has been entered into under clause (ii), after the expiration of the 6-month period beginning on the day the supplier transfers title to the item to the patient under clause (ii)(I), a maintenance and servicing payment may be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment) during the first month of each succeeding 6-month period, and the amount recognized for each such period is the amount recognized for the item for such period under clause (iv)."; and

(F) by adding at the end the following new subparagraph:

"(C) REPLACEMENT OF ITEMS.—

"(i) ESTABLISHMENT OF REASONABLE USEFUL LIFETIME.—The Secretary shall determine and establish a reasonable useful lifetime for items of durable medical equipment for which payment may be made under this paragraph.

"(ii) PAYMENT FOR REPLACEMENT ITEMS.—If the reasonable lifetime of such an item, as so established, has been reached during a continuous period of medical need, or the carrier determines that the item is lost or irreparably damaged, payment for an item serving as a replacement for such item may be made on a monthly basis for the rental of the replacement item in accordance with subparagraph (A).".

(4) TREATMENT OF POWER-DRIVEN WHEELCHAIRS AS MISCELLANEOUS ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(A) IN GENERAL.—Section 1834(a)(2)(A) of such Act (42 U.S.C. 1395m(a)(2)(A)) is amended—

(i) in clause (i), by inserting "or" at the end;

(ii) in clause (ii), by striking "or" at the end; and

(iii) by striking clause (iii).

(B) OPTIONAL TREATMENT AS CUSTOMIZED ITEM.—Section 1834(a)(4) of such Act (42 U.S.C. 1395m(a)(4)) is amended by striking "patient," and inserting "patient (including a customized wheelchair classified as a customized item under this paragraph pursuant to criteria specified by the Secretary),".

(d) FREEZE IN REASONABLE CHARGES FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1991.—In determining the amount of payment under part B of title XVIII of the Social Security Act for enteral and parenteral nutrients, supplies, and equipment furnished during 1991, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges

determined to be reasonable with respect to such items for 1990.

(e) REQUIRING PRIOR APPROVAL FOR POTENTIALLY OVERUSED ITEMS.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)), as amended by subsection (b)(4), is amended by adding at the end the following new paragraph:

"(15) CARRIER DETERMINATIONS OF POTENTIALLY OVERUSED ITEMS IN ADVANCE.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that the Secretary determines, on the basis of prior payment experience, are frequently subject to unnecessary utilization, and shall include in such list seat-lift chairs, trancutaneous electrical nerve stimulators, and motorized scooters.

"(B) DETERMINATIONS OF COVERAGE IN ADVANCE.—A carrier shall determine in advance whether payment for an item included on the list developed by the Secretary under subparagraph (A) may not be made because of the application of section 1862(a)(1).".

(f) PROHIBITION AGAINST DISTRIBUTION OF MEDICAL NECESSITY FORMS BY SUPPLIERS.—

(1) IN GENERAL.—Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), as amended by subsections (b)(4) and (e), is further amended by adding at the end the following new paragraph:

"(16) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF FORMS DOCUMENTING MEDICAL NECESSITY.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed forms or other documents required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(B) PENALTY.—Any supplier of a covered item who knowingly and willfully distributes a form or other document in violation of subparagraph (A) is subject to a civil money penalty in an amount not to exceed $1,000 for each such form or document so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to forms and documents distributed on or after January 1, 1991.

(g) LIMITING CHARGES OF NONPARTICIPATING SUPPLIERS.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)), as amended by subsections (b)(4), (e), and (f), is further amended by adding at the end the following new paragraph:

"(17) LIMITING CHARGES FOR NONPARTICIPATING SUPPLIERS.—

"(A) IN GENERAL.—In the case of covered items for which payment may be made under this subsection furnished on or after January 1, 1991, if a nonparticipating supplier furnishes the item to an individual entitled to benefits under this part, the supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to an item furnished—

"(i) in 1991, 125 percent of the payment amount specified for the item under this subsection,

"(ii) in 1992, 120 percent of the payment amount specified for the item under this subsection, and

"(iii) in a subsequent year, 115 percent of the payment amount specified for the item under this subsection.

"(C) ENFORCEMENT.—If a supplier knowingly and willfully bills in violation of subparagraph (A), the Secretary may apply sanctions against such supplier in accordance with section 1842(j)(2) in the same manner as such sanctions may apply to a physician.".

(h) RECERTIFICATION FOR CERTAIN PATIENTS RECEIVING HOME OXYGEN THERAPY SERVICES.—

(1) IN GENERAL.—Section 1834(a)(5) of such Act (42 U.S.C. 1395m(a)(5)) is amended—

(A) in subparagraph (A), by striking "(B) and (C)" and inserting "(B), (C), and (E)"; and

(B) by adding at the end the following new subparagraph:

"(E) RECERTIFICATION FOR PATIENTS RECEIVING HOME OXYGEN THERAPY.—In the case of a patient receiving home oxygen therapy services who, at the time such services are initiated, has an initial arterial blood gas value at or above a partial pressure of 55 or an arterial oxygen saturation at or above 89 percent, no payment may be made under this part for such services after the expiration of the 60-day period that begins on the date the patient first receives such services unless the patient's attending physician certifies that, on the basis of a follow-up test of the patient's arterial blood gas value or arterial oxygen saturation conducted during the final 15 days of such 60-day period, there is a medical need for the patient to continue to receive such services.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to patients who first receive home oxygen therapy services on or after January 1, 1991.

(i) STUDY OF SEPARATE FEE SCHEDULES FOR CERTAIN SUPPLIERS OF PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of the feasibility and desirability of establishing a separate fee schedule for use in determining the amount of payments for covered items under section 1834(a) of the Social Security Act with respect to suppliers of prosthetic devices, orthotics, and prosthetics who provide professional services that would take into account the costs to such providers of providing such services.

(2) REPORT.—By not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1).

(j) TECHNICAL CORRECTIONS.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 4062(e) of such Act is amended—

(1) by inserting "(other than oxygen and oxygen equipment)" after "covered items", and

(2) by inserting before the period at the end the following: "and to oxygen and oxygen equipment furnished on or after June 1, 1989".

(k) EFFECTIVE DATE.—Except as provided in subsections (f)(2), (h)(2), and (j), the amendments made by this section shall apply to items furnished on or after January 1, 1991.

SEC. 4022. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) REDUCTION IN NATIONAL CAP ON FEE SCHEDULES.—

(1) IN GENERAL.—Section 1833(h)(4)(B) of the Social Security Act (42 U.S.C. 1395l(h)(4)(B)) is amended—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii)—

(i) by inserting "and before January 1, 1991," after "1989,", and

(ii) by striking the period at the end and inserting ", and"; and

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

"(iv) after December 31, 1990, is equal to 85 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to tests furnished on or after January 1, 1991.

(b) CLARIFICATION OF MANDATORY ASSIGNMENT FOR TESTS PERFORMED BY A PHYSICIAN OFFICE LABORATORY.—

(1) IN GENERAL.—(A) Section 1833(h)(5)(C) of such Act (42 U.S.C. 1395l(h)(5)(C)) is amended by striking "performed by a laboratory other than a rural health clinic" and inserting "(other than a test performed by a rural health clinic)".

(B) Section 1833(h)(5)(A)(ii)(III) of such Act (42 U.S.C. 1395l(i)(5)(A)(iii)) is amended by striking "laboratory," and inserting "laboratory (but not including a laboratory described in subclause (II)),".

(C) Section 6111(b)(2) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "January 1, 1990" and inserting "May 1, 1990".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(c) TECHNICAL CORRECTIONS.—

(1)(A) Section 1833(h)(5)(A)(ii) of such Act (42 U.S.C. 1395l(h)(5)(A)(ii)) is amended—

(i) in subclause (II), by striking "a wholly-owned subsidiary of" and inserting "wholly owned by"; and

(ii) in subclause (III), by striking "submits bills or requests for payment in any year" and inserting "receives requests for testing during the year in which the test is performed".

(B) The amendments made by subparagraph (A) shall take effect January 1, 1991.

(2) The heading of section 1846 of such Act is amended by striking "OF" and inserting "OR".

(3) Section 9339(b) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking paragraph (3).

SEC. 4024. COVERAGE OF NURSE PRACTITIONERS IN RURAL AREAS.

(a) IN GENERAL.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (ii), by striking "and" at the end;

(2) in clause (iii), by striking "(i) or (ii)" and inserting "(i), (ii), or (iii)";

(3) by redesignating clause (iii) as clause (iv); and

(4) by inserting after clause (ii) the following new clause:

"(iii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner or clinical nurse specialist (as defined in subsection (aa)(3)) working in collaboration (as defined in subsection (aa)(4)) with a physician (as defined in subsection (r)(1)) in a rural area (as defined in section 1886(d)(2)(D)) which the nurse practitioner or clinical nurse specialist is authorized to perform by the State in which the services are performed, and".

(b) PAYMENT.—

(1) DIRECT PAYMENT.—Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the semicolon and inserting a comma; and

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

"(iv) services of a nurse practitioner or clinical nurse specialist provided in a rural area (as defined in section 1886(d)(2)(D)); and".

(2) AMOUNT.—Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (K); and

(B) by inserting after subparagraph (L) the following new subparagraph: "(M) with respect to services described in section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area), the amounts paid shall be 80 percent of the lesser of the actual charge or the prevailing charge that would be recognized (or, for services furnished on or after January 1, 1992, the fee schedule amount provided under section 1848, as the case may be) if the services had been performed by a physician (subject to the limitation described in subsection (r)(2)), and".

(3) CAP ON PREVAILING CHARGE; BILLING ONLY ON ASSIGNMENT-RELATED BASIS.—Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(r)(1) With respect to services described in section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area), payment may be made on the basis of a claim or request for payment presented by the nurse practitioner or clinical nurse specialist furnishing such services, or by a hospital, rural primary care hospital, physician, group practice, ambulatory surgical center, or rural health clinic with which the nurse practitioner or clinical nurse specialist has an employment or contractual relationship that provides for payment to be made under this part for such services to such hospital, physician, group practice, ambulatory surgical center, or rural health clinic.

"(2)(A) For purposes of subsection (a)(1)(M), the prevailing charge for services described in section 1861(s)(2)(K)(iii) may not exceed the applicable percentage (as defined in subparagraph (B)) of the prevailing charge rate determined for such services performed by physicians who are not specialists.

"(B) In subparagraph (A), the term 'applicable percentage' means—

"(i) 75 percent in the case of services performed in a hospital, and

"(ii) 85 percent in the case of other services.

"(3)(A) Payment under this part for services described in section 1861(s)(2)(K)(iii) may be made only on an assignment-related basis, and any such assignment agreed to by a nurse practitioner or clinical nurse specialist shall be binding upon any other person presenting a claim or request for payment for such services.

"(B) Except for deductible and coinsurance amounts applicable under this section, any person who knowingly and willfully presents, or causes to be presented, to an individual enrolled under this part a bill or request for payment for services described in section 1861(s)(2)(K)(iii) in violation of subparagraph (A) is subject to a civil money penalty of not to exceed $2,000 for each such bill or request. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(4) No hospital or rural primary care hospital that presents a claim or request for payment under this part for services described in section 1861(s)(2)(K)(iii) may treat any uncollected coinsurance amount imposed under this part with respect to such services as a bad debt of such hospital for purposes of this title.".

(c) CONFORMING AMENDMENT.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by striking "section 1861(s)(2)(K)" each place it appears in paragraphs (6) and (12) and inserting "clauses (i) and (ii) of section 1861(s)(2)(K)".

(d) DEFINITION.—Section 1861(aa)(3) of the Social Security Act (42 U.S.C. 1395x(aa)(3)) is amended by striking "The term" and all that follows through "who performs" and inserting the following: "The term 'physician assistant', the term 'nurse practitioner', and the term 'clinical nurse specialist' mean, for purposes of this Act, a physician assistant, nurse practitioner, or clinical nurse specialist who performs".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 4025. CLARIFYING COVERAGE OF EYEGLASSES PROVIDED WITH INTRAOCULAR LENSES FOLLOWING CATARACT SURGERY.

(a) COVERAGE AS A PROSTHETIC DEVICE.—Section 1861(s)(8) of the Social Security Act (42 U.S.C. 1395x(s)(8)) is amended by inserting before the semicolon at the end the following: "and including corrective eyeglasses provided with intraocular lenses following cataract surgery (but not including replacement for such eyeglasses)".

(b) CLARIFICATION OF EXCLUSION.—Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)) is amended by inserting "(other than eyeglasses described in section 1861(s)(8))" after "eyeglasses" the first place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished before, on, or after the date of the enactment of this Act.

SEC. 4026. COVERAGE OF INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraph (M),

(B) by inserting "and" at the end of subparagraph (N), and

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

"(O) a covered osteoporosis drug and its administration (as defined in subsection (jj)) furnished on or after January 1, 1991, and on or before December 31, 1992; and"; and

(2) by inserting after subsection (ii) the following new subsection:

"COVERED OSTEOPOROSIS DRUG

"(jj) The term 'covered osteoporosis drug' means an injectable drug approved for the treatment of a bone fracture related to postmenopausal osteoporosis provided to a patient if, in accordance with regulations promulgated by the Secretary—

"(1) the patient's attending physician certifies that the patient is unable to learn the skills needed to self-administer such drug or is otherwise physically or mentally incapable of self-administering such drug; and

"(2) the patient meets the requirements for coverage of home health services described in section 1814(a)(2)(C).".

(b) STUDY OF EFFECTS OF COVERAGE.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study analyzing the effects of coverage of osteoporosis drugs under part B of title XVIII of the Social Security Act (as amended by subsection (a)) on patient health and the utilization of inpatient hospital and extended care services.

(2) REPORT.—By not later than March 1, 1992, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in such report such recommendations regarding expansion of coverage under the medicare program of items and services for individuals with post-menopausal osteoporosis as the Secretary considers appropriate.

SEC. 4027. CONDITIONS FOR CATARACT SURGERY ALTERNATIVE PAYMENT DEMONSTRATION PROJECT.

In carrying out any demonstration project to evaluate the effectiveness of alternative methods of payment for cataract surgery under title XVIII of the Social Security Act, the Secretary of Health and Human Services—

(1) may not select providers to participate in such demonstration project solely on the basis of the number of cataract surgeries performed;

(2) shall monitor the quality of services provided under such demonstration project; and

(3) shall develop criteria for the selection of providers to participate in such demonstration project in consultation with physicians specializing in the care and treatment of conditions of the eyes.

Subpart C—Miscellaneous Provisions

SEC. 4031. MEDICARE CARRIER NOTICE TO STATE MEDICAL BOARDS.

(a) IN GENERAL.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by inserting after subparagraph (H) the following new subparagraph:

"(I) will refer cases of physician unethical or unprofessional conduct to the State medical board or boards responsible for the licensing of the physician involved;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cases of unethical or unprofessional conduct that a carrier becomes aware of more than 60 days after the date of the enactment of this Act. The Secretary of Health and Human Services shall provide for such modification of contracts under section 1842 of the Social Security Act as may be necessary to incorporate the additional requirement imposed by the amendment made by subsection (a) on a timely basis.

SEC. 4032. TECHNICAL AND MISCELLANEOUS PROVISIONS RELATING TO PART B.

(a) Section 1833(o)(2)(D) of the Social Security Act (42 U.S.C. 1395l(o)(2)(D)) is amended by striking "one (or more, as specified by the Secretary) pairs" and inserting "one pair (or more pairs, as specified by the Secretary)".

(b) Section 1839(a)(4) of such Act (42 U.S.C. 1395r(a)(4)) is amended by striking "which" after "age 65" the second place it appears.

(c) Section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (H),

(2) by inserting "and" at the end of subparagraph (I), and

(3) by redesignating subparagraph (I) as subparagraph (J).

(d) Section 1861(s)(2)(B) of such Act (42 U.S.C. 1395x(s)(2)(B)) is amended by striking "and partial hospital services incident to such services" and by inserting "and partial hospitalization services" after "hospital services".

(e) Section 1861(ii) of such Act (42 U.S.C. 1395x(ii)) is amended—

(1) by inserting "furnished by a clinical psychologist (as defined by the Secretary)" after "means such services", and

(2) by striking "his service furnished by a clinical psychologist (as defined by the Secretary)" and inserting "such services".

PART 2—PROVISIONS RELATING TO PARTS A AND B

Subpart A—Peer Review Organizations

SEC. 4101. PRO COORDINATION WITH CARRIERS.

(a) IN GENERAL.—Section 1154 of the Social Security Act (42 U.S.C. 1320c-3) is amended by adding at the end the following new subsection:

"(g) In carrying out coordinating activities under subsection (a)(10)(A) with carriers under section 1842, each organization shall provide, in a manner specified by the Secretary, for—

"(1) information exchange in accordance with specifications of the Secretary,

"(2) development of common utilization and quality review claim edits and specific medical review criteria used to identify individual claims for review, and

"(3) collaboration on the analysis of utilization trends and on the results of medical reviews and collaboration on the development of claim edit standards and review criteria.".

(b) CARRIER COORDINATION.—Section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended by inserting after subparagraph (H) the following new subparagraph:

"(I) will coordinate its activities with those of utilization and quality control peer review organizations, in the manner specified by the Secretary in order to carry out section 1154(g); and".

(c) REPORT.—By not later than January 1, 1992, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the implementation of the amendments made by this section.

SEC. 4102. CONFIDENTIALITY OF PEER REVIEW DELIBERATIONS.

(a) IN GENERAL.—Section 1160(d) of the Social Security Act (42 U.S.C. 1320c-9(d)) is amended by adding at the end the following: "No document or other information produced by such an organization in connection with its deliberations in making determinations under section 1154(a)(1)(B) or 1156(a)(2) shall be subject to subpena or discovery in any administrative or civil proceeding; except that such an organization shall provide, upon request of a practitioner or other person adversely affected by such a determination, a summary of the organization's findings and conclusions in making the determination.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to all proceedings as of the date of the enactment of this Act.

SEC. 4103. ROLE OF PEER REVIEW ORGANIZATIONS IN REVIEW OF HOSPITAL TRANSFERS.

(a) IN GENERAL.—Section 1867(d) of the Social Security Act (42 U.S.C. 1395dd(d)) is amended by adding at the end the following new paragraph:

"(4) CONSULTATION WITH PEER REVIEW ORGANIZATIONS.—

"(A) IN GENERAL.—In considering allegations concerning violations of the requirements of this section in imposing sanctions under paragraph (1) or (2) in cases in which the concerns described in subparagraph (B) are raised, the Secretary shall request the appropriate utilization and quality control peer review organization (with a contract under part B of title XI) to review the medical condition of the individual involved and provide a report concerning its findings and professional opinions with respect to such concerns. Except in the case in which a delay would immediately jeopardize the health or safety of individuals, the Secretary shall request such a review before effecting a sanction under paragraph (1) or paragraph (2) and shall provide a period of at least 60 days for such review.

"(B) CONCERNS.—The concerns described in this subparagraph are—

"(i) whether the individual had an emergency medical condition which had not been stabilized, and

"(ii) if the individual was transferred, (I) whether, based upon the information available at the time of the transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweighed the increased risks to the individual (and, in the case of labor, to the unborn child) from effecting the transfer, and (II) whether the transfer was an appropriate transfer (as defined in subsection (c)(2)).".

(b) CONFORMING AMENDMENT.—Section 1154(a) of such Act (42 U.S.C. 1320c-4(a)) is amended by adding at the end the following new paragraph:

"(16) The organization shall provide for a review and report to the Secretary when requested by the Secretary under section 1867(d)(4)(A). The organization shall provide reasonable notice of the review to the physician and hospital involved. Within the time period permitted by the Secretary, the organization shall provide a reasonable opportunity for discussion with the physician and hospital involved, and an opportunity for the physician and hospital to submit additional information, before issuing its report to the Secretary under such section.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 60 days after the date of the enactment of this Act. The amendment made by subsection (b) shall apply to contracts under part B of title XI of the Social Security Act as of the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 4104. PEER REVIEW NOTICE.

(a) REQUIREMENT.—Section 1154(a)(9) of the Social Security Act (42 U.S.C. 1320c-3(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by adding at the end the following:

"(B) The organization shall notify the State board or boards responsible for the licensing or disciplining of any physician when the organization submits a report and recommendations to the Secretary with respect to such physician under section 1156(b)(1).".

(b) DISCLOSURE.—Section 1160(b)(1) of such Act (42 U.S.C. 1320c-9(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by adding "and" at the end of subparagraph (C), and

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

"(D) to provide notice to the State medical board in accordance with section 1154(a)(9)(B) when the organization submits a report and recommendations to the Secretary under section 1156(b)(1) with respect to a physician whom the board is responsible for licensing;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices of proposed sanctions issued more than 60 days after the date of the enactment of this Act.

SEC. 4105. NOTICE TO STATE MEDICAL BOARDS WHEN ADVERSE ACTIONS TAKEN.

(a) IN GENERAL.—Section 1156(b) of the Social Security Act (42 U.S.C. 1320c-5(b)) is amended by adding at the end the following new paragraph:

"(6) When the Secretary effects an exclusion of a physician under paragraph (2), the Secretary shall notify the State board responsible for the licensing of the physician of the exclusion.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sanctions effected more than 60 days after the date of the enactment of this Act.

SEC. 4106. TREATMENT OF OPTOMETRISTS AND PODIATRISTS.

(a) IN GENERAL.—Section 1154 of the Social Security Act (42 U.S.C. 1320c-3) is amended—

(1) in subsection (a)(7)(A)(i), by inserting ", optometry, or podiatry" after "dentistry"; and

(2) in subsection (c), by striking "or dentistry" each place it appears and inserting "dentistry, optometry, or podiatry".

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

Subpart B—Other Provisions

SEC. 4121. EXTENSION OF SECONDARY PAYOR PROVISIONS.

(a) EXTENSION OF RENAL DISEASE PERIOD FROM 12 TO 18 MONTHS.—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended by striking "12-month period" each place it appears and inserting "18-month period".

(b) ELIMINATION OF SUNSET FOR TRANSFER OF DATA PROVISION.—Section 1862(b)(5)(C) of such Act (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(c) ELIMINATION OF SUNSET ON APPLICATION TO DISABLED BENEFICIARIES.—

(1) IN GENERAL.—Section 1862(b)(1)(B) of such Act (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "(iv)(II)" and "(iv)(I)" and inserting "(iii)(II)" and "(iii)(I)", respectively,

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1), (2), and (3)(B) of section 1837(i) of such Act (42 U.S.C. 1395p(i)) and section 1839(b) of such Act (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" and inserting "1862(b)(1)(B)(iii)".

(d) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to group health plans for plan years beginning on or after January 1, 1991.

(2) The amendments made by subsections (b) and (c) shall take effect on the date of the enactment.

SEC. 4122. HEALTH MAINTENANCE ORGANIZATIONS.

(a) PERMITTING RETROACTIVE ENROLLMENT OF CERTAIN RETIREES.—

(1) IN GENERAL.—Section 1876(c)(3)(B) of the Social Security Act (42 U.S.C. 1395mm(c)(3)(B)) is amended—

(A) by inserting "(i)" after "(B)", and

(B) by adding at the end the following new clauses:

"(ii) Regulations under clause (i) shall provide that, in the case of an individual who, at the time of retirement from employment, is enrolled with an eligible organization (which has a risk-sharing contract under this section) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer, the enrollment may be made effec-

tive as of the first month of such retirement if such enrollment occurs not later than 3 months after the date of the retirement.

"(iii) Such regulations shall provide that, in the case of an individual who, at the time the individual's spouse retires from employment, is enrolled with an eligible organization (which has a risk-sharing contract under this section) under a health benefit plan operated, sponsored, or contributed to, by the employer or former employer of the individual's spouse, the enrollment may be made effective as of the first month of such retirement if such enrollment occurs not later than 3 months after the date of the retirement of the individual's spouse.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) PROHIBITING CERTAIN EMPLOYER MARKETING ACTIVITIES.—

(1) IN GENERAL.—Section 1862(b)(3) of such Act (42 U.S.C. 1395y(b)(3)) is amended by adding at the end the following new subparagraph:

"(C) PROHIBITION OF FINANCIAL INCENTIVES NOT TO ENROLL IN A GROUP HEALTH PLAN.—It is unlawful for an employer or other entity to offer any financial or other incentive for an individual not to enroll (or to terminate enrollment) under a group health plan which would (in the case of such enrollment) be a primary plan (as defined in paragraph (2)(A)), unless such incentive is also offered to all individuals who are eligible for coverage under the plan. Any entity that violates the previous sentence is subject to a civil money penalty of not to exceed $5,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to incentives offered on or after the date of the enactment of this Act.

(c) PATIENT'S RIGHT TO PARTICIPATE IN AND DIRECT HEALTH CARE DECISIONS.—

(1) REQUIREMENT FOR ELIGIBLE ORGANIZATIONS.—Section 1876(c) of the Social Security Act (42 U.S.C. 1395mm(c)) is amended—

(A) in subsection (c), by adding at the end the following new paragraph:

"(8) A contract under this section shall provide that the eligible organization shall meet the requirement of subsection (k) (relating to maintaining written policies and procedures respecting advance directives).", and

(B) by adding at the end the following new subsection:

"(k)(1) For purposes of subsection (c)(8), the requirement of this subsection is that an eligible organization maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the organization—

"(A) to provide written information to each such individual concerning—

"(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

"(ii) the written policies of the organization respecting the implementation of such rights;

"(B) to document in the individual's medical record whether or not the individual has executed an advance directive;

"(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

"(D) to ensure compliance with requirements of State law respecting advance directives at facilities of the organization; and

"(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

"(2) The written information described in paragraph (1)(A) shall be provided to an adult individual at the time of enrollment of the individual with the organization.

"(3) In this subsection, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.".

(2) APPLICATION TO OTHER PREPAID ORGANIZATIONS.—Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(r) The Secretary may not provide for payment under subsection (a)(1)(A) with respect to an organization unless the organization provides assurances satisfactory to the Secretary that the organization meets the requirement of section 1876(k) (relating to maintaining written policies and procedures respecting advance directives).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to contracts under section 1876 of the Social Security Act and payments under section 1833(a)(1)(A) of such Act as of first day of the first month beginning more than 1 year after the date of the enactment of this Act.

SEC. 4123. DEMONSTRATION PROJECT FOR PROVIDING STAFF ASSISTANTS TO HOME DIALYSIS PATIENTS.

(a) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and carry out a demonstration project to determine whether the services of a home dialysis aide providing medical assistance to a patient during hemodialysis treatment at the patient's home may be covered under the medicare program in a cost-effective manner that ensures patient safety.

(b) PAYMENTS TO PARTICIPATING PROVIDERS AND FACILITIES.—

(1) SERVICES FOR WHICH PAYMENT MAY BE MADE.—Under the demonstration project established under subsection (a), the Secretary shall make payments for 2 years under title XVIII of the Social Security Act to a provider of services (other than a skilled nursing facility) or a renal dialysis facility located in an urban area and to a provider of services (other than a skilled nursing facility) or a renal dialysis facility located in a rural area for services of a qualified home dialysis aide providing medical assistance to an individual described in subsection (c) during hemodialysis treatment at the individual's home in an amount determined under paragraph (2).

(2) AMOUNT OF PAYMENT.—(A) Subject to subparagraph (B), payment to a provider of services or renal dialysis facility participating in the demonstration project established under subsection (a) for the services described in paragraph (1) shall be equal to a rate prospectively determined by the Secretary and shall be made on a per treatment basis.

(B) The per treatment amount of payment made under the demonstration project for services provided to a patient may not exceed the amount of payment that would be made under title XVIII of the Social Security Act for ambulance service provided to the patient for transportation to and from the provider of services or renal dialysis facility.

(c) INDIVIDUALS ELIGIBLE TO RECEIVE SERVICES UNDER PROJECT.—An individual may receive services from a provider of services or renal dialysis facility participating in the demonstration project if—

(1) the individual is an end stage renal disease patient entitled to benefits under title XVIII of the Social Security Act;

(2) the individual's attending physician certifies that the individual suffers from a permanent, serious medical condition (as specified by the Secretary) that precludes travel to and from a provider of services or renal dialysis facility; and

(3) no family member or other individual is available or able to provide such assistance to the individual.

(d) QUALIFICATIONS FOR HOME DIALYSIS AIDES.—For purposes of subsection (b), a home dialysis aide is qualified if the aide—

(1) meets requirements developed by the Secretary for home dialysis aides providing medical assistance during hemodialysis treatment at an individual patient's home; or

(2) meets any applicable standards established by the State in which the aide is providing such assistance.

(e) REPORT.—Not later than 6 months after the expiration of the demonstration project established under subsection (a), the Secretary shall submit to Congress a report on the results of the project, and shall include in such report recommendations regarding appropriate eligibility criteria and cost-control mechanisms for medicare coverage of the services of a home dialysis aide providing medical assistance to a patient during hemodialysis treatment at the patient's home.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated not more than $2,000,000 to carry out the demonstration project established under subsection (a).

SEC. 4124. EXTENSION OF REPORTING DEADLINE FOR ALZHEIMER'S DISEASE DEMONSTRATION PROJECT.

Section 9342(d)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "upon completion" and inserting "not later than 1 year after completion".

SEC. 4125. MISCELLANEOUS TECHNICAL CORRECTIONS.

Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 1891(a)(3)(D)(iii) of the Social Security Act (42 U.S.C. 1395bbb(a)(3)(D)(iii)) is amended—

(1) by inserting ", within the previous 2 years," after "which has been determined"; and

(2) by striking "the requirements specified in or pursuant to section 1861(o) or subsection (a) within the previous 2 years" and inserting "(I) subparagraph (A), (B), or (C), or (II) has been subject to an extended (or partial extended) survey under subsection (c)(2)(D)".

PART 3—PROVISIONS RELATING TO BENEFICIARIES

SEC. 4201. PART B PREMIUM.

(a) $1 INCREASE IN PREMIUM FOR 1991.—Notwithstanding any other provision of law, but subject to subsections (b) and (f) of section 1839 of the Social Security Act, the amount of the monthly premium under such section, applicable for individuals enrolled under part B of title XVIII of such title for 1991, shall be increased by $1 above the amount of such premium otherwise determined under section 1839(a)(3) of such Act.

(b) PREMIUM FOR YEARS 1992 THROUGH 1995.—Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1), by inserting "and for each month after December 1991 and prior to January 1996" after "January 1991", and

(2) in paragraph (2), by striking "1991" and inserting "1996".

SEC. 4202. PART B DEDUCTIBLE.

Effective beginning with 1991, section 1833(b) of the Social Security Act (42 U.S.C. 1395l) is amended by striking "$75" and inserting "$100".

PART 4—STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 4301. SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.

(a) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)(B), by striking "through (4)" and inserting "through (5)";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (3),

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

(C) by inserting after paragraph (4) the following new paragraph:

"(5) meets the requirements of subsection (o).";

and

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

"(o) The requirements of this subsection are as follows:

"(1)(A) Each medicare supplemental policy shall provide for coverage of a group of benefits consistent with subsection (p)(1).

"(B) If the medicare supplemental policy provides for coverage of a group of benefits other than the core group of basic benefits described in subsection (p)(2)(B), the issuer of the policy must make available to the individual a medicare supplemental policy with only such core group of basic benefits.

"(C) The issuer of the policy has provided, before the sale of the policy, a summary information sheet which describes—

"(i) the benefits and premium under the policy, and

"(ii) the average ratio of benefits provided to premiums collected for the most recent 3-year period in which the policy is in effect (or, for a policy that has not been in effect for 3 years, the average ratio of benefits provided to premiums collected that is expected during the 3rd year of the policy).

Such summary information shall be on a standard form approved by the State (in consultation with the Secretary) consistent with the subsection (d)(3)(D).

"(2)(A) Each medicare supplemental policy shall be guaranteed renewable and—

"(i) the issuer may not cancel or nonrenew the policy solely on the ground of health status of the individual; and

"(ii) the issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

"(B) If the medicare supplemental policy is terminated by the group policyholder and is not replaced as provided under subparagraph (D), the issuer shall offer certificateholders an individual medicare supplemental policy which (at the option of the certificateholder)—

"(i) provides for continuation of the benefits contained in the group policy, or

"(ii) provides for such benefits as otherwise meets the requirements of this section.

"(C) If an individual is a certificateholder in a group medicare supplemental policy and the individual terminates membership in the group, the issuer shall—

"(i) offer the certificateholder the conversion opportunity described in subparagraph (B), or

"(ii) at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

"(D) If a group medicare supplemental policy is replaced by another group medicare supplemental policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

"(3)(A) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended for any period in which the policyholder has applied for and is determined to be entitled to medical assistance under title XIX of the Social Security Act, but only if the policyholder notifies the issuer of such policy within 90 days after the date the individual becomes entitled to such assistance. If such suspension occurs and if the policyholder loses entitlement to such medical assistance, such policy shall be automatically reinstated as of the termination of such entitlement if the policyholder provides notice of loss of such entitlement within 90 days after the date of such loss.

"(B) Nothing in this section shall be construed as affecting the authority of a State, under title XIX of the Social Security Act, to purchase a medicare supplemental policy for an individual otherwise entitled to assistance under such title.

"(p)(1)(A) If, within 9 months after the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection referred to as the 'Association') promulgates—

"(i) limitations on the groups or packages of benefits that may be offered under a medicare supplemental policy consistent with paragraphs (2) and (3) of this subsection,

"(ii) uniform language and definitions to be used with respect to such benefits,

"(iii) uniform format to be used in the policy with respect to such benefits, and

"(iv) transitional requirements consistent with paragraph (4),

(such limitations, language, definitions, format, and requirements referred to collectively in this subsection as 'NAIC simplification standards'), subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the NAIC simplification standards.

"(B) If the Association does not promulgate NAIC simplification standards within the 9-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 9 months after the end of such period, limitations, language, definitions, format, and requirements described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal simplification standards') and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the Federal simplification standards.

"(C)(i) Subject to clause (ii), the date specified in this subparagraph for a State is the date the State adopts the NAIC simplification standards or the Federal simplification standards or 1 year after the date the Association or the Secretary first adopts such standards, whichever is earlier.

"(ii) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(I) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the NAIC or Federal simplification standards, but

"(II) having a legislature which is not scheduled to meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1992. 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.

"(D) Notwithstanding any other provision of this section, no medicare supplemental policy may be sold, issued, or renewed in a State unless—

"(i) the State's regulatory program under subsection (b)(1) provides for the application and enforcement of the standards and requirements set forth in such subsection (including the NAIC simplification standards or the Federal simplification standards (as the case may be)) by the date specified in subparagraph (C); or

"(ii) if the State's program does not provide for the application and enforcement of such standards and requirements, the Secretary has determined that the policy meets the standards and requirements set forth in subsection (c) (including such applicable simplification standards) by such date.

Any person who issues or sells a medicare supplemental policy, after the effective date of the NAIC or Federal simplification standards with respect to the policy, in violation of this subparagraph is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(E) In promulgating simplification standards under this paragraph, the Association or Secretary shall consult with a working group composed of representatives of issuers of medicare supplemental policies, consumer groups, medicare beneficiaries, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

"(F) If benefits (including deductibles and coinsurance) under this title are changed and the Secretary determines, in consultation with the Association, that changes in the NAIC or Federal simplification standards are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of simplification standards previously established in the same manner as they applied to the original establishment of such standards.

"(2) The benefits under the NAIC or Federal simplification standards shall provide—

"(A) for such groups or packages of benefits as may be appropriate taking into account the considerations specified in paragraph (4) and the requirements of the succeeding subparagraphs;

"(B)(i) for identification of a core group of basic benefits (not including payment of

any deductibles), common to all policies, and

"(ii) for identification of a group of benefits including the core group of basic benefits and common additional benefits; and

"(C) that, subject to paragraph (5), the total number of different benefit packages (counting the core group of basic benefits described in subparagraph (B)(i), the group of benefits identified in subparagraph (B)(ii), and each other combination of benefits that may be offered as a separate benefit package) that may be established in all the States and by all issuers shall not exceed 10.

"(3) The benefits under paragraph (2) shall, to the extent possible—

"(A) provide for benefits that offer consumers the ability to purchase the benefits that are available in the market as of the date of the enactment of this subsection; and

"(B) balance the objectives of (i) simplifying the market to facilitate comparisons among policies, (ii) avoiding adverse selection, (iii) providing consumer choice, (iv) providing market stability, and (v) promoting competition.

"(4) For purposes of paragraph (1)(A)(iv), the transitional requirements of this paragraph are that, in the case of a medicare supplemental policy which was issued to a policyholder before the effective date of the NAIC or Federal simplification standards and which do not meet such standards, any renewal of such policy shall be deemed to be the issuance of a policy in violation of this subsection unless the issuer offers to the policyholder, not later than 60 days before the effective date of the renewal, 2 medicare supplemental policies each of which—

"(A) complies with such standards,

"(B) waives any time periods applicable to preexisting conditions, waiting period, elimination periods and probationary periods in the policy for similar benefits to the extent such time was spent under the policy being replaced, and

"(C) provides for classification of premiums on terms that are at least as favorable to the policyholder as the premium classification terms that applied to the policyholder as of such effective date,

and one of which provides for the core group of basic benefits described in paragraph (2)(B)(i) and the other of which provides benefits described in paragraph (2)(B)(ii).

"(5)(A) The Secretary may, upon application by a State, waive the requirements of this subsection to permit the issuance and sale of a medicare supplemental policy which does not comply with the respective NAIC or Federal simplification standards for a period of up to 3 years in order to demonstrate the offering of new or innovative benefits as part of the policy. Such new or innovative benefits may include managed care features.

"(B) In the case of any such waiver, the Secretary shall evaluate the appropriateness of the new or innovative benefits offered and determine if the addition of a new group of such benefits to the NAIC or Federal simplification standards previously established would further the purposes of this subsection. If such determination is made, subject to subparagraph (C), the Secretary shall request the Association to modify the NAIC simplification standards or to recommend modification of the Federal simplification standards to include such an additional group of benefits (and accompanying language, definitions, and format with respect to such benefits) as may be appropriate. If the Association fails to make such a modification in a timely manner, the Secretary may make such a modification.

"(C) Not more than 3 additional groups of benefits may be added under subparagraph (B).

"(6)(A) Except as provided in subparagraph (B), this subsection shall not be construed as preventing a State from restricting the groups or packages of benefits (of those meeting the standards) that may be offered in medicare supplemental policies in the State.

"(B) A State may not restrict under subparagraph (A) the offering of a medicare supplemental policy in which the benefits consist only of the core group of basic benefits described in paragraph (2)(B)(i) or the group of benefits described in paragraph (2)(B)(ii).

"(C) This subsection shall not be construed as preventing an issuer of a medicare supplemental policy from providing, through an arrangement with a vendor, for discounts from that vendor to policyholder or certificateholders for the purchase of items or services not covered under its medicare supplemental policies.

"(8) The Secretary shall request the Association to establish an educational program in order to educate consumers on the simplification standards developed and applied under this subsection.

"(9) The Comptroller General shall examine the effectiveness of the medicare supplemental policy simplification program established under this subsection and the impact of the program on consumer protection, health benefit innovation, consumer choice, and health care costs. By not later than 4 years after the date of the enactment of this subsection, the Comptroller General shall submit to Congress a report on such examination and shall include in the report such recommendations on the appropriate roles of the National Association of Insurance Commissioners, States, and the Secretary in carrying out such a program as he deems appropriate.".

(b) PERIODIC REVIEW OF STATE REGULATORY PROGRAMS.—Section 1882(b) of such Act is amended—

(1) in paragraph (1), by striking "Supplemental Health Insurance Panel (established under paragraph (2))" and inserting "the Secretary",

(2) in paragraph (1), by striking "the Panel" and inserting "the Secretary",

(3) in subparagraphs (A) and (D) of paragraph (1), by inserting "and enforcement" after "application", and

(4) by amending paragraph (2) to read as follows:

"(2) The Secretary periodically shall review State regulatory programs to determine if they continue to meet the standards and requirements specified in paragraph (1). If the Secretary finds that a State regulatory program no longer meets the standards and requirements, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State regulatory program to continue to meet such standards and requirements. If the Secretary makes a final determination that the State regulatory program, after such an opportunity, fails to meet such standards and requirements, the program shall no longer be considered to have in operation a program meeting such standards and requirements.".

SEC. 4002. REQUIRING APPROVAL OF STATE FOR SALE IN THE STATE.

(a) IN GENERAL.—Section 1882(d)(4)(B) of the Social Security Act (42 U.S.C. 1395ss(d)(4)(B)) is amended—

(1) in the first sentence, by inserting before the period at the end the following: "(in the case of a State with an approved regulatory program) or (in the case of a State without such aprogram) has not been approved by the Secretary", and

(2) by amending the second sentence to read as follows: "Nothing in this section shall be construed as to affect the right of any State to regulate medicare supplemental policies which, under the provisions of this section, are considered to be issued in another State.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to policies mailed, or caused to be mailed, on and after July 1, 1991.

SEC. 4003. PREVENTING DUPLICATION.

(a) IN GENERAL.—Subsection (d)(3) of section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subparagraph (A)—

(A) by striking "Whoever knowingly sells" and inserting "It is unlawful for a person to sell or issue",

(B) by striking "substantially",

(C) by striking ", shall be fined" and inserting ". Whoever violates the previous sentence shall be fined",

(D) in subparagraph (A), by inserting "or title XIX" after "other than this title",

(E) in subparagraph (A), by striking "$5,000" and inserting "$25,000", and

(F) in subparagraph (A), by adding at the end the following: "Any person aggrieved by a violation of this subsection may in a civil action recover threefold the damages such person sustained as a result of such violation, any other appropriate relief (including punitive damages), and the costs of the suit (including reasonable attorney's fees).";

(2) by amending subparagraph (B) to read as follows:

"(B)(i) It is unlawful for a person to issue or sell a medicare supplemental policy to an individual entitled to benefits under part A or enrolled under part B, whether directly, through the mail, or otherwise, unless—

"(I) the person obtains from the individual, as part of the application for the issuance or purchase and on a form described in subclause (II), a written statement signed by the individual stating, to the best of the individual's knowledge, what health insurance policies the individual has, from what source, and whether the individual is entitled to any medical assistance under title XIX, whether as a qualified medicare beneficiary or otherwise, and

"(II) the written statement is accompanied by a written acknowledgment, signed by the seller of the policy, of the request for and receipt of such statement.

"(ii) The statement required by clause (i) shall be made on a form that—

"(I) states (in a prominent manner described by the Secretary) the following: 'A medicare beneficiary does not need more than one medicare supplemental policy. If you are 65 years of age or older, you may be eligible for benefits under your State medicaid program. If you are eligible for medicaid benefits, you do not need a medicare supplemental policy. If you are enrolled with the medicaid program and have a medicare supplemental policy, you can suspend your medicare supplemental policy (including premium payments) while receiving medicaid benefits if you provide notice to the insurer within 90 days of becoming eligible for medicaid. If you lose medicaid benefits, you may resume coverage under your medicare supplemental policy by providing notice to the insurer within 90 days of the date you lost medicaid benefits.'; and

"(II) states that counseling services may be available in the State to provide advice concerning the purchase of medicare supplemental policies and enrollment under the medicaid program, and may provide the telephone number for such services.

"(iii)(I) Except as provided in subclause (II), if the statement required by clause (i) is not obtained or indicates that the individual has another medicare supplemental policy or indicates that the individual is entitled to any medical assistance under title XIX, it is unlawful to sell or issue such a policy.

"(II) Subclause (I) shall not apply in the case of an individual who has another medicare supplemental policy and who is not entitled to medicaid benefits, if the individual indicates in writing, as part of the application for purchase, that the policy being purchased replaces such other policy and indicates an intent to terminate the policy being replaced when the new policy becomes effective.

"(iv) Whoever issues or sells a medicare supplemental policy in violation of this subparagraph shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each such failure."; and

(3) by adding at the end the following:

"(D)(i) Anyone who sells a medicare supplemental policy to an individual shall make available for sale to the individual both a medicare supplemental policy with only the core group of basic benefits (described in subsection (p)(2)(B)(i)) and a medicare supplemental policy with the benefits described in subsection (p)(2)(B)(ii).

"(ii) Anyone who sells a medicare supplemental policy to an individual shall provide the individual, before the sale of the policy, a summary information sheet which describes the benefits under the policy. Such summary information shall be on a standard form approved by the State regulatory program or the Secretary (as the case may be) consistent with the NAIC or Federal simplification standards under subsection (p)(1).

"(iii) Whoever sells a medicare supplemental policy in violation of this subparagraph is subject to a civil money penalty of not to exceed $25,000 for each such violation.".

(b) CONFORMING AMENDMENT.—Section 1882(d)(5) of such Act is amended by inserting "(3)(B), (3)(D)," after "(3)(A),".

(c) INCREASE IN OTHER CIVIL MONEY PENALTIES.—Paragraphs (1) and (4)(A) of section 1882(d) of such Act are amended by striking "$5,000" and inserting "$25,000".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued or sold more than 1 year after the date of the enactment of this Act.

SEC. 4384. LOSS RATIOS.

(a) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (c), by amending paragraph (2) to read as follows:

"(2) meets the requirements of subsection (q);";

(2) by striking the last sentence of subsection (c); and

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

"(q)(1) A medicare supplemental policy or health insurance policy that is an indemnity policy or a dread disease policy (as defined by the Secretary in consultation with the National Association of Insurance Commissioners) may not be issued or sold in any State unless—

"(A) the policy has returned (as determined for the most recent 3-year period ending with the year in which the policy is issued or renewed, on the basis of incurred claims experience and earned premiums for such periods and in accordance with accepted actuarial principles and practices and standards developed by the National Association of Insurance Commissioners) to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group medicare supplemental policies, at least 70 percent in the case of individual medicare supplemental policies, and 60 percent in the case of group and individual health insurance policies that are indemnity policies or dread disease policies;

"(B) any premium increase (or the initial establishment of the premium) is made in a manner consistent with paragraph (2); and

"(C) the issuer of the policy (i) annually submits to the State information with respect to the actual ratio of aggregate benefits provided to aggregate premiums on forms conforming to those developed by the National Association of Insurance Commissioners for such purpose, and (ii) annually provides a proportional credit, based on the premium paid and in accordance with paragraph (3), of the amount of premiums received necessary to assure that the ratio of aggregate benefits to the aggregate premiums collected (net of such credits) complies with the requirement of subparagraph (A).

"(2)(A) It is unlawful for an insurer to increase the premiums charged for a medicare supplemental policy (or to issue a policy and charge premiums) unless—

"(B) the issuer has submitted to the State (at such time as the State may specify, but not earlier than 90 days in advance of such proposed effective date) the proposed premium amounts in advance of the proposed effective date of the premiums; and

"(C) the issuer has included, as part of the submission under subparagraph (B), information, certified as accurate by an actuary, that establishes that the premium amounts are reasonable in relation to the benefits and that the resulting ratio of benefits to premiums will meet the requirement specified in paragraph (1)(A).

"(3)(A) Paragraph (1)(C) shall be applied with respect to each type of policy by policy number. Paragraph (1)(C) shall not apply to a policy with respect to the first 2 years in which it is in effect. The National Association of Insurance Commissioners is requested to submit to Congress a report containing recommendations on adjustments in the percentages under paragraph (1)(A) that may be appropriate in order to apply paragraph (1)(C) to the first 2 years in which policies are effective.

"(B) A credit required under paragraph (1)(C) shall be made to each individual who continues to be a policyholder or certificateholder not later than the first premium charged more than 6 months after the close of the year involved. The total amount of such credits shall be sufficient to meet the requirement of paragraph (1)(A).

"(C) Such a credit shall include interest from the end of the policy year involved until the date of the credit at a rate, specified by the Secretary for this purpose from time to time, that is not less than the average rate of interest for 13-week Treasury notes.

"(4) The provisions of this subsection do not preempt a State from—

"(A) requiring a higher percentage than that specified in paragraph (1)(A), or

"(B) requiring the review or approval of premiums not otherwise required to be reviewed or approved under paragraph (2) or providing additional requirements for the approval of premiums.

"(5)(A) The Comptroller General shall periodically, not less often than once every 3 years, perform audits with respect to the compliance of medicare supplemental policies with the requirements of paragraph (1) and shall report the results of such audits to the State involved and to the Secretary.

"(B) The Secretary may independently perform such compliance audits.

"(6)(A) A person who issues or sells a policy in violation of paragraph (1) is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(B) Each issuer of a policy subject to the requirements of paragraph (1)(C) shall be liable to policyholders for credits required under such paragraph.".

(b) ASSURING ACCESS TO LOSS RATIO INFORMATION.—Section 1882(b)(1)(C) of such Act (42 U.S.C. 1395ss(b)(1)(C)) is amended by striking the semicolon at the end and inserting a comma and the following:

"and that a copy of each such policy, the most recent premium for each such policy, and a listing of the ratio of benefits provided to premiums collected for the most recent 3-year period for each such policy issued or sold in the State is maintained and made available to interested persons;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to policies sold or issued more than 1 year after the date of the enactment of this Act.

SEC. 4385. LIMITATIONS ON CERTAIN SALES COMMISSIONS.

(a) IN GENERAL.—Section 1882(d) of the Social Security Act is amended—

(1) in paragraph (5)—

(A) by striking "and (4)(A)" and inserting "(4)(A), and (5)(A)", and

(B) by redesignating such paragraph as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5)(A) It is unlawful for a person who provides for a commission or other compensation to an agent or other representative with respect to the sale of a medicare supplemental policy (or certificate)—

"(i) to provide for a first year commission or other first year compensation that exceeds 200 percent of the commission or other compensation for the selling or servicing of the policy or certificate in a second or subsequent year, or

"(ii) to provide for compensation with respect to replacement of such a policy or certificate that is greater than the compensation that would apply to the renewal of the policy or certificate.

Whoever violates the previous sentence shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each such prohibited act.

"(B) In this paragraph the term 'compensation' includes pecuniary and nonpecuniary compensation of any kind relating to the sale or renewal of a policy or certificate and specifically includes bonuses, gifts, prizes, awards, and finders' fees.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to compensation provided on or after 1 year after the date of the enactment of this Act.

SEC. 4386. CLARIFICATION OF TREATMENT OF PLANS OFFERED BY HEALTH MAINTENANCE ORGANIZATIONS.

(a) IN GENERAL.—The first sentence of section 1882(g)(1) of the Social Security Act is amended by inserting before the period at the end the following: "and does not include

a policy or plan of a health maintenance organization or other direct service organization which offers benefits under this title, including such services under a contract under section 1833 or 1876".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4307. PROHIBITION OF CERTAIN DISCRIMINATORY PRACTICES.

(a) IN GENERAL.—Section 1882(o) of the Social Security Act, as added by section 4111(a)(2) of this Act, is amended by inserting after paragraph (4) the following new paragraph:

"(5)(A) Except as provided in this paragraph, an entity that issues medicare supplemental policies in a State shall offer any individual who is 65 years of age or older and who resides in the State, upon request of the individual made during the 6-month period beginning with the first month in which the individual has attained such age and is enrolled under part B, the opportunity of enrolling in a medicare supplemental policy which provides for a core group of basic benefits (described in subsection (p)(2)(B)(i)) and a medicare supplemental policy which offers the group of benefits described in subsection (p)(2)(B)(ii), without conditioning the issuance or effectiveness of such a policy on, and without discriminating in the price of such a policy based on, the medical or health status or the receipt of health care by the individual.

"(B)(i) Subject to clause (ii), paragraph (1) shall not be construed as preventing the exclusion of benefits under a policy, during its first 6 months, based on a pre-existing condition for which the policyholder received treatment or was otherwise diagnosed during the 6 months before it became effective.

"(ii) If a medicare supplemental policy or certificate replaces another such policy or certificate which has been in effect for 6 months or longer, the replacing policy may not provide any time period applicable to pre-existing conditions, waiting periods, elimination periods, and probationary periods in the new policy or certificate for similar benefits.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

SEC. 4308. HEALTH INSURANCE ADVISORY SERVICE FOR MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a health insurance advisory service program (in this section referred to as the "beneficiary assistance program") to assist medicare-eligible individuals with the receipt of services under the medicare and medicaid programs and other health insurance programs.

(b) OUTREACH ELEMENTS.—The beneficiary assistance program shall provide assistance—

(1) through operation using local Federal offices that provide information on the medicare program,

(2) using community outreach programs, and

(3) using a toll-free telephone information service.

(c) ASSISTANCE PROVIDED.—The beneficiary assistance program shall provide for information, counseling, and assistance for medicare-eligible individuals with respect to at least the following:

(1) With respect to the medicare program—

(A) eligibility,

(B) benefits (both covered and not covered),

(C) the process of payment for services,

(D) rights and process for appeals of determinations,

(E) other medicare-related entities (such as peer review organizations, fiscal intermediaries, and carriers), and

(F) recent legislative and administrative changes in the medicare program.

(2) With respect to the medicaid program—

(A) eligibility, benefits, and the application process,

(B) linkages between the medicaid and medicare programs, and

(C) referral to appropriate State and local agencies involved in the medicaid program.

(3) With respect to medicare supplemental policies—

(A) the program under section 1882 of the Social Security Act and standards required under such program,

(B) how to make informed decisions on whether to purchase such policies and on what criteria to use in evaluating different policies,

(C) appropriate Federal, State, and private agencies that provide information and assistance in obtaining benefits under such policies, and

(D) other issues deemed appropriate by the Secretary.

The beneficiary assistance program also shall provide such other services as the Secretary deems appropriate to increase beneficiary understanding of, and confidence in, the medicare program and to improve the relationship between beneficiaries and the program.

(d) EDUCATIONAL MATERIAL.—The Secretary, through the Administrator of the Health Care Financing Administration, shall develop appropriate educational materials and other appropriate techniques to assist employees in carrying out this section.

(e) NOTICE TO BENEFICIARIES.—The Secretary shall take such steps as are necessary to assure that medicare-eligible beneficiaries and the general public are made aware of the beneficiary assistance program.

(f) REPORT.—The Secretary shall include, in an annual report transmitted to the Congress, a report on the beneficiary assistance program and on other health insurance informational and counseling services made available to medicare-eligible individuals. The Secretary shall include in the report recommendations for such changes as may be desirable to improve the relationship between the medicare program and medicare-eligible individuals.

SEC. 4309. ADDITIONAL ENFORCEMENT THROUGH PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.— The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by redesignating title XXVII as title XXVIII;

(2) by redesignating sections 2701 through 2714 as sections 2801 through 2814, respectively; and

(3) by inserting after title XXV the following new title:

"TITLE XXVII—ENFORCEMENT OF CERTAIN HEALTH INSURANCE STANDARDS

"SEC. 2701. ENFORCEMENT OF CERTAIN HEALTH INSURANCE STANDARDS.

"(a) ENFORCEMENT OF UNDERWRITING.—A person that fails to meet the requirements of section 1882(o)(5) of the Social Security Act (relating to discriminatory practices) is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

"(b) ENFORCEMENT OF LOSS-RATIO REQUIREMENTS.—A person who issues or sells a medicare supplemental policy or a health insurance policy that is an indemnity or dread disease policy (as defined by the Secretary of Health and Human Services under section 1882(q)(1) of the Social Security Act) in violation of such section is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

"(c) ENFORCEMENT OF LIMITATIONS ON SALES COMMISSIONS.—Whoever violates section 1882(o)(5)(A) of the Social Security Act (relating to sales commissions) shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 for each prohibited act under such section.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Public Health Service Act (42 U.S.C. 201 et seq.) is further amended—

(1) in section 406(a)(2), by striking "2701" and inserting "2801";

(2) in section 465(f), by striking "2701" and inserting "2801";

(3) in section 480(a)(2), by striking "2701" and inserting "2801";

(4) in section 485(a)(2), by striking "2701" and inserting "2801";

(5) in section 497, by striking "2701" and inserting "2801";

(6) in section 505(a)(2), by striking "2701" and inserting "2801"; and

(7) in section 926(b), by striking "2711" each place such term appears and inserting "2811".

Subtitle B—Medicaid Program

PART 1—REDUCTIONS IN SPENDING

SEC. 4401. REIMBURSEMENT FOR PRESCRIBED DRUGS.

(a) IN GENERAL.—

(1) DENIAL OF FEDERAL FINANCIAL PARTICIPATION UNLESS REBATE AGREEMENTS AND DRUG USE REVIEW IN EFFECT.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (9) and inserting "; or", and

(B) by inserting after paragraph (9) the following new paragraph:

"(10) with respect to covered outpatient drugs of a manufacturer dispensed in any of the 50 States or the District of Columbia unless, except as provided in section 1927(a)(3), the manufacturer complies in all such States and District with the rebate requirements of section 1927(a) with respect to the drugs so dispensed.".

(2) STATE PLAN DRUG ACCESS LIMITATIONS FOR DRUGS COVERED UNDER A REBATE AGREEMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking "and" at the end of paragraph (52),

(B) by striking the period at the end of paragraph (53) and inserting "; and", and

(C) by inserting after paragraph (53) the following new paragraph:

"(54)(A) provide that, in the case of a manufacturer which has entered into and complies with an agreement under section 1927(a), the plan shall permit the coverage of covered outpatient drugs of the manufacturer which are prescribed (on or after Apri

1, 1991) for a medically accepted indication (as defined in section 1927(f)(6)),

"(B) comply with the reporting requirements of section 1927(b)(2)(A) and the requirements of section 1927(d), and

"(C) effective January 1, 1993, provide for drug use review in accordance with section 1927(d).".

(3) REBATE AGREEMENTS FOR COVERED OUTPATIENT DRUGS, DRUG USE REVIEW, AND RELATED PROVISIONS.—Title XIX of the Social Security Act is amended by redesignating section 1927 as section 1928 and by inserting after section 1926 the following new section:

"PAYMENT FOR PRESCRIBED DRUGS

"SEC. 1927. (a) REQUIREMENT FOR REBATE AGREEMENT.—

"(1) IN GENERAL.—In order for payment to be available under section 1903(a) for covered outpatient drugs of a manufacturer, the manufacturer must have entered into and have in effect a rebate agreement described in subsection (b) with the Secretary, on behalf of all the States. If a manufacturer has not entered into such an agreement before February 1, 1991, such an agreement, subsequently entered into, shall not be effective until the first day of the calendar quarter that begins more than 60 days after the date the agreement is entered into.

"(2) EFFECTIVE DATE.—Paragraph (1) shall first apply to drugs dispensed under this title on or after February 1, 1991, except that and any agreement entered into under this section on or before February 1, 1991, shall be effective with respect to drugs dispensed on or after January 1, 1991.

"(3) EFFECT ON EXISTING AGREEMENTS.—In the case of a rebate agreement in effect between a State and a manufacturer on October 1, 1990, such agreement may remain in effect, and shall be considered to be a rebate agreement in compliance with this section with respect to that State, if the State establishes to the satisfaction of the Secretary that the agreement can reasonably be expected to provide in any 12-month period for rebates that are at least as large as the rebates otherwise required under this section.

"(4) APPLICATION IN CERTAIN STATES AND TERRITORIES.—

"(A) APPLICATION IN STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of section 1902(a)(54) and of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(B) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section, and sections 1902(a)(54) and 1903(i)(10), shall only apply to a State that is one of the 50 States or the District of Columbia.

"(b) TERMS OF REBATE AGREEMENT.—

"(1) QUARTERLY REBATES.—

"(A) TIMING.—

"(i) IN GENERAL.—A rebate agreement under this subsection shall require the manufacturer to provide, to each State plan approved under this title, a rebate each calendar quarter in the amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed under the plan during the quarter. Except as provided in clause (ii), such a rebate shall be paid to each State by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for that quarter.

"(ii) SPECIAL PAYMENT RULE FOR THE CALENDAR QUARTER BEGINNING JULY 1, 1991.—With respect to the calendar quarter beginning July 1, 1991, such a rebate shall be paid to each State by the manufacturer by not later than September 30, 1991, based on the amount of the rebate payable by the manufacturer for the previous quarter. The amount of the rebate payment for the the quarter beginning October 1, 1991, shall be increased or decreased to the extent that the rebate payment for the quarter beginning July 1, 1991, was less than, or exceeded, the amount of the rebate otherwise required to be made under the agreement without regard to this clause.

"(B) OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State as rebates under this section in any quarter shall be considered to be a reduction in the amount expended under the State plan in the quarter for medical assistance for purposes of section 1903(a)(1).

"(2) STATE PROVISION OF INFORMATION.—

"(A) STATE RESPONSIBILITY.—Each State agency under this title shall report to the Secretary, not later than 60 days after the end of each calendar quarter and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength of each covered outpatient drug of a manufacturer dispensed under the plan during the quarter, and shall promptly transmit such information to the manufacturer.

"(B) AUDIT BY MANUFACTURERS.—A manufacturer has the right to audit only such data of the States as are reasonably necessary to verify information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

"(C) NOTICE TO SECRETARY.—Each State agency shall notify the Secretary within 30 days after the date each rebate is received under this section.

"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

"(A) IN GENERAL.—Each manufacturer with an agreement in effect under this section shall report to the Secretary (and make available upon request to each State agency)—

"(i) not later than 30 days after the last day of each quarter (beginning on or after April 1, 1991), on the average manufacturer price (as defined in subsection (f)(1)) and (for single source drugs and innovator multiple source drugs) the manufacturer's best price (as defined in subsection (c)(3)(A)) for covered outpatient drugs for the quarter, and

"(ii) not later than 30 days after the date of entering into an agreement under this section on the best price (as defined in subsection (c)(3)(B)) as of September 1, 1990 for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary to verify average manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a written request for information about charges or prices by the Secretary in connection with a survey authorized under this subparagraph or knowingly provides false information in response to such a request. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—If a manufacturer with an agreement under this section fails to provide information required under subparagraph (A) on a timely basis, the amount of the rebates next required to be paid for a calendar quarter under the agreement shall be increased by 2 percent, and, if such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

"(ii) FALSE INFORMATION.—Any manufacturer with an agreement under this section that knowingly provides false information to the Secretary under this paragraph is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Such civil money penalties are in addition to other penalties as may be prescribed by law (including exclusion under section 1128(b)(11)). The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Information disclosed by manufacturers or wholesalers under subparagraph (A) or (B) is confidential and shall not be disclosed by the Secretary or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer, wholesaler, or product, except as the Secretary determines to be necessary to carry out this section and to permit the Comptroller General and the Inspector General of the Department to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of 1 year and shall be automatically renewed for an additional 1-year period unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until such period (of not more than 1 year, specified by the Secretary in regulation) after the date of the manufacturer provides notice of such termination to the Secretary.

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, a new such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 year has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(c) AMOUNT OF REBATE.—

"(1) IN GENERAL.—

"(A) SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—Except as provided in this subsection and subsection (b)(3)(C)(i), the amount of the rebate to a State during a calendar quarter with respect to single source drugs and innovator multiple source drugs shall be equal to the product of—

"(i) the amount by which (I) the average manufacturer price to wholesalers during the quarter for each dosage form and strength of a covered outpatient drug, exceeds (II) the manufacturer's best price (as defined in paragraph (3)) for such form and strength; and

"(ii) the number of units of such form and strength dispensed under the plan under this title in the State in the quarter (as reported by the State under subsection (b)(2)).

"(B) OTHER DRUGS.—Except as provided in subsection (b)(3)(C)(i), the amount of the rebate to a State during a calendar quarter with respect to covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(i) 10 percent of the average manufacturer price to wholesalers during the quarter for each dosage form and strength of a covered outpatient drug (after deducting customary prompt payment discounts); and

"(ii) the number of units of such form and dosage dispensed under the plan under this title in the State in the quarter (as reported by the State under subsection (b)(2).

"(2) MINIMUM AND MAXIMUM REBATE RATES FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—In no case shall the amount of the rebate described in paragraph (1)(A) for a manufacturer for a calendar quarter with respect to single source drugs and innovator multiple source drugs—

"(A) be less than 10 percent, or

"(B) for calendar quarters beginning before April 1, 1995, be more than—

"(i) 25 percent (for each quarter during the 8-calendar-quarter period beginning April 1, 1991), or

"(ii)) 50 percent (for each quarter during the 8-calendar-quarter period beginning April 1, 1993),

of the product of the price described in paragraph (1)(A)(i)(I) and the number of units described in paragraph (1)(A)(ii) for the quarter.

"(3) BEST PRICE DEFINED.—

"(A) IN GENERAL.—In this subsection, the term 'best price' means, for a covered outpatient drug of a manufacturer dispensed in a calendar quarter—

"(i) the lowest price available for the drug from the manufacturer to any wholesaler, retailer, provider, nonprofit entity, or governmental entity within the United States during the quarter, or

"(ii) the lowest price in effect for the drug from the manufacturer to any wholesaler, retailer, provider, nonprofit entity, or governmental entity within the United States in effect on September 1, 1990, increased (for calendar quarters beginning on or after January 1, 1991) by the percentage increase in the Consumer Price Index for All Urban Consumers (all items; U.S. city average) from September 1990 to the month before the beginning of the calendar quarter involved,

whichever is lower.

"(B) TREATMENT OF NEW DRUGS.—In the case of a covered outpatient drug approved for marketing after September 1, 1990, any reference in subparagraph (A)(ii) to 'September 1, 1990' or 'September 1990' shall be a reference to the first day of the first month, and the first month, respectively, during which the drug was marketed and any reference in subsection (b)(3)(A)(ii) to '30 days after the date of entering into an agreement under this section on the best price described in paragraph (3)(B) as of September 1, 1990' shall be a reference to '30 days after the date the drug is first marketed in the United States'.

"(C) COMPUTATION OF LOWEST PRICE.—The lowest price described in this paragraph shall be inclusive of cash discounts, free goods, volume discounts, and rebates, shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package, and shall not take into account prices that are merely nominal in amount.

"(d) DRUG USE REVIEW.—

"(1) IN GENERAL.—In order to meet the requirement of section 1902(a)(54)(C), a State shall provide, by not later than January 1, 1993, for a drug use review program described in paragraph (2) for covered outpatient drugs (other than psychopharmacologic drugs described in section 1919(c)(2)(D) dispensed to residents of nursing facilities) in order to assure, in accordance with any guidelines developed by the Agency for Health Care Policy and Research, that prescriptions (A) are appropriate and (B) are medically necessary.

"(2) DESCRIPTION OF PROGRAM.—Each drug use review program shall meet the following requirements for covered outpatient drugs and other prescription drugs for which payment may be made under this title:

"(A) PROSPECTIVE DRUG REVIEW.—The State plan shall provide for a review of drug therapy before each prescription is filled or delivered to the patient, typically at the point-of-sale or point-of-distribution. Each pharmacist shall use the compendia (referred to in subsection (f)(6)) as the pharmacist's source of standards for such review.

"(B) RETROSPECTIVE DRUG USE REVIEW.—The program shall provide, through its mechanized drug claims processing and information retrieval systems (approved by the Secretary under section 1903(r)) or otherwise, for the periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse or underuse, or inappropriate or medically unnecessary care, among physicians, pharmacies, and patients, or associated with specific drugs or groups of drugs.

"(C) EDUCATIONAL PROGRAM.—The program shall educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse or underuse, or inappropriate or medically unnecessary care, among physicians, pharmacies, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs.

"(e) MISCELLANEOUS.—

"(1) LIMITATIONS ON COVERAGE OF OUTPATIENT DRUGS.—Nothing in section 1902(a)(54)(A) shall be construed as preventing a State from restricting the amount, duration, and scope of coverage of covered outpatient drugs consistent with section 1902(a)(30).

"(2) RELATION TO MAXIMUM ALLOWABLE COST LIMITATIONS.—This section shall not supercede or affect provisions relating to maximum allowable cost limitations for payment by States for covered outpatient drugs, and rebates under this section shall be made without regard to whether or not payment by the State for such drugs are subject to such limitations or the amount of such cost limitations.

"(3) EXCLUSION OF CERTAIN DRUG ASSOCIATED WITH EXCLUSIVE PATIENT MONITORING SERVICES.—Nothing in this title shall be construed as requiring a State to provide medical assistance for covered outpatient drugs of a manufacturer which requires, as a condition for the purchase of the drugs, that the manufacturer be paid for associated services or tests (such as patient monitoring systems) provided only by the manufacturer or its designee.

"(f) DEFINITIONS.—In this section:

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the average price paid (taking into account customary prompt payment discounts) to the manufacturer for the drug by retail pharmacies or by wholesalers for drugs distributed to the retail pharmacy class of trade.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of section 1905(a)(12), a drug which may be dispensed only upon prescription (except as provided in paragraph (4)), and—

"(i) which is approved as a prescription drug under sections 505 or 507 of the Federal Food, Drug, and Cosmetic Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Federal Food, Drug, and Cosmetic Act and if at such time its labeling contained the same representations concerning its conditions of use as in its current labeling, or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under sections 301, 302(a), or 304(a) of such Act to enforce sections 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling;

"(B) a biological product which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product; and

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to, and in the same setting as, any of the following (and for which payment is made under this title as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the State plan authorizes direct reim-

bursement to the dispensing dentist are covered outpatient drugs.

"(D) Physician office visits.

"(E) Outpatient hospital emergency room visits.

"(F) Outpatient surgical procedures.

"(4) NONPRESCRIPTION DRUGS.—If a State plan for medical assistance under this title includes coverage of prescribed drugs as described in section 1905(a)(12) and permits coverage of drugs which may be sold without a prescription (commonly referred to as 'over-the-counter' drugs), if they are prescribed by a physician (or other person authorized to prescribe under State law), such a drug may be regarded as a covered outpatient drug.

"(5) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug,—

"(A) the entity (if any) that both manufactures and distributes the drug, or

"(B) if no such entity exists, the entity that distributes the drug.

Such term does not include a wholesale distributor of the drug or a retail pharmacy licensed under State law.

"(6) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act or which is accepted by one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, and the United States Pharmacopeia-Drug Information.

"(7) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINITIONS.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a calendar quarter, a covered outpatient drug (not including any drug described in paragraph (4)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug which is not a multiple source drug.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation (after an opportunity for public comment of 90 days) the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity;

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence; and

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, provided that the listed product is generally available to the public through retail pharmacies in that State.

"(8) STATE AGENCY.—The term 'State agency' means the agency designated under section 1902(a)(5) to administer or supervise the administration of the State plan for medical assistance.".

(c) FUNDING.—

(1) DRUG USE REVIEW PROGRAMS.—Section 1903(a)(3) of such Act (42 U.S.C. 1396b(a)(3)) is amended—

(A) by striking "plus" at the end of subparagraph (C) and inserting "and", and

(B) by adding at the end the following new subparagraph:

"(D) 75 percent of so much of the sums expended by the State plan during a quarter in 1991, 1992, or 1993, as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of section 1927(e); plus".

(2) TEMPORARY INCREASE IN FEDERAL MATCH FOR ADMINISTRATIVE COSTS.—The per centum to be applied under section 1903(a)(7) of the Social Security Act for amounts expended during calendar quarters in fiscal year 1991 which are attributable to administrative activities necessary to carry out section 1927 (other than subsection (d)) of such Act shall be 75 percent, rather than 50 per centum.

SEC. 4402. REQUIRING MEDICAID PAYMENT OF PREMIUMS AND COST-SHARING FOR ENROLLMENT UNDER GROUP HEALTH PLANS WHERE COST-EFFECTIVE.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) in section 1902(a)(25) (42 U.S.C. 1396a(a)(25))—

(A) by striking "and" at the end of subparagraph (E),

(B) by adding "and" at the end of subparagraph (F), and

(C) by adding at the end the following new subparagraph:

"(G) that the State plan shall meet the requirements of section 1906 (relating to enrollment of individuals under group health plans in certain cases);"; and

(2) by inserting after section 1905 the following new section:

"ENROLLMENT OF INDIVIDUALS UNDER GROUP HEALTH PLANS

"SEC. 1906. (a) For purposes of section 1902(a)(25)(G) and subject to subsection (d), each State plan—

"(1) shall establish guidelines, consistent with subsection (b), to identify those cases in which enrollment of an individual otherwise entitled to medical assistance under this title in a group health plan (in which the individual is otherwise eligible to be enrolled) is cost-effective (as defined in subsection (e)(2));

"(2) shall require, in case of an individual so identified and as a condition of the individual being or remaining eligible for medical assistance under this title and subject to subsection (b)(2), notwithstanding any other provision of this title, that the individual (or in the case of a child, the child's parent) apply for enrollment in the group health plan; and

"(3) in the case of such enrollment, shall provide for payment of all enrollee premiums for such enrollment and all deductibles, coinsurance, and similar costs for items and services otherwise covered under the State plan under this title (exceeding the amount otherwise permitted under section 1916), and shall treat coverage under the group health plan as a third party liability (under section 1902(a)(25)).

"(b)(1) In establishing guidelines under subsection (a)(1), each State shall take into account that an individual may only be eligible to enroll in group health plans at limited times and only if other individuals (not entitled to medical assistance under the plan) are also enrolled in the plan simultaneously.

"(2) If a parent of a child fails to enroll the child in a group health plan in accordance with subsection (a)(2), such failure shall not affect the child's eligibility for benefits under this title.

"(c)(1)(A) In the case of payments of premiums, deductibles, coinsurance, and similar expenses under this section shall be considered, for purposes of section 1903(a), to be payments for medical assistance.

"(B) If all members of a family are not eligible for medical assistance under this title and enrollment of the members so eligible in a group health plan is not possible without also enrolling members not so eligible—

"(i) payment of premiums for enrollment of such other members shall be treated as payments for medical assistance for eligible individuals, if it would be cost-effective (taking into account payment of all such premiums), but

"(ii) payment of deductibles, coinsurance, and similar expenses for such other members shall not be treated as payments for medical assistance for eligible individuals.

"(2) In the case of a hospital, physician, or other provider that provides care covered under the State plan under a group health plan in which an individual entitled to medical assistance for such care is enrolled under this section, the provider is deemed to have agreed—

"(A) to accept as payment in full the payment amount recognized under the State plan (or, if greater, the payment amount provided under the plan), and

"(B) not to charge the individual or the State any amounts that would result in aggregate payment (including payments under the plan) exceeding the payment amount so recognized under the State plan.

"(3) The fact that an individual is enrolled in a group health plan under this section shall not change the individual's eligibility for benefits under the State plan, except insofar as section 1902(a)(25) provides that payment for such benefits shall first be made by such plan.

"(d)(1) Any different benefits made available, through enrollment under this section, to eligible individuals shall not, by reason of section 1902(a)(10), require such benefits be made available to other individuals.

"(2)(A) In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(B) This section, and section 1902(a)(25)(G), shall only apply to a State that is one of the 50 States or the District of Columbia.

"(e) In this section:

"(1) The term 'group health plan' has the meaning given such term in section 5000(b)(1) of the Internal Revenue Code of 1986, and includes the provision of continuation coverage by such a plan pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974.

"(2) The term 'cost-effective' means that the reduction in expenditures under this title with respect to an individual who is enrolled in a group health plan is likely to be greater than the additional expenditures for premiums and cost-sharing required under this section with respect to such enrollment.".

(b) TREATMENT OF ERRONEOUS EXCESS PAYMENTS FOR MEDICAL ASSISTANCE.—Section 1903(u)(1)(C)(iv) of such Act (42 U.S.C. 1396b(u)(1)(C)) is amended by inserting before the period at the end the following: "or with respect to payments made in violation of section 1906".

(c) OPTIONAL MINIMUM 6-MONTH ELIGIBILITY.—Section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new subsection:

"(11)(A) In the case of an individual who is enrolled with a group health plan under section 1906 and who would (but for this paragraph) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in subparagraph (B)), the State plan may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but only with respect to such benefits provided to the individual as an enrollee of such plan.

"(B) For purposes of subparagraph (A), the term 'minimum enrollment period' means, with respect to an individual's enrollment with a group health plan, a period established by the State, of not more than 6 months beginning on the date the individual's enrollment under the plan becomes effective.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended by adding at the end the following: "The payment described in the first sentence may include expenditures for medicare cost-sharing and for premiums under part B of title XVIII for individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), and, except in the case of individuals 65 years of age or older and disabled individuals entitled to health insurance benefits under title XVIII who are not enrolled under part B of title XVIII, other insurance premiums for medical or any other type of remedial care or the cost thereof.".

(2) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by striking "(including expenditures for" and all that follows through "or the cost thereof)".

(e) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before 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 the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4403. COMPUTER MATCHING AND PRIVACY REVISIONS.

(a) VERIFICATION REQUIREMENTS.—Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

"(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.".

(b) ISSUANCE OF GUIDANCE BY DIRECTOR OF OMB.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this section.

(c) LIMITATION ON APPLICATION OF VERIFICATION REQUIREMENT.—Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by subsection (a), shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b-7), until the earlier of—

(1) the date on which the Data Integrity Board of the Federal agency which administers that program determines that there is not a high degree of confidence that information provided by that agency under Federal matching programs is accurate; or

(2) 30 days after the date of publication of guidance under subsection (b).

PART 2—PROTECTION OF LOW-INCOME MEDICARE BENEFICIARIES

SEC. 4411. EXTENDING MEDICAID PAYMENT FOR MEDICARE PREMIUMS FOR CERTAIN INDIVIDUALS WITH INCOME BELOW 125 PERCENT OF THE OFFICIAL POVERTY LINE.

(a) ENTITLEMENT.—Section 1902(a)(10)(E)(ii) of the Social Security Act (42 U.S.C. 1395b(a)(10)(E)(ii)) is amended by inserting "(I)" before "for qualified" and by inserting before the comma the following: "and (II) subject to section 1905(p)(4), for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) but is less than 125 percent of the official poverty line (referred to in such section) for a family of the size involved".

(b) FEDERAL PAYMENT OF FULL COSTS OF ADDITIONAL MEDICAL ASSISTANCE.—The last sentence of section 1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by inserting before the period at the end the following: "and with respect to amounts expended for medicare cost-sharing described in subsection (p)(3)(A)(i) for individuals described in section 1902(a)(10)(E)(ii)(II)".

(c) APPLICATION IN CERTAIN STATES AND TERRITORIES.—Section 1905(p)(4) of such Act (42 U.S.C. 1396d(p)(4)) is amended—

(1) in subparagraph (B), by inserting "or 1902(a)(10)(E)(ii)(II)" after "subparagraph (B)", and

(2) by adding at the end the following: "In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirement of section 1902(a)(10)(E) in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title."

(d) CONFORMING AMENDMENT.—Section 1843(h) of such Act (42 U.S.C. 1395v(h)) is amended by adding at the end the following new paragraph:

"(3) In this subsection, the term 'qualified medicare beneficiary' also includes an individual described in section 1902(a)(10)(E)(ii)(II).".

(e) DELAY IN COUNTING SOCIAL SECURITY COLA INCREASES UNTIL NEW POVERTY GUIDELINES PUBLISHED.—

(1) IN GENERAL.—Section 1905(p) of such Act is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(D)"

after "supplementary social security income program", and

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

"(D)(i) In determing under this subsection the income of an individual who is entitled to monthly insurance benefits under title II for a transition month (as defined in clause (ii)) in a year, such income shall not include any amounts attributable to an increase in the level of monthly insurance benefits payable under such title which have occurred pursuant to section 215(i) for benefits payable for months beginning with December of the previous year.

"(ii) For purposes of clause (i), the term 'transition month' means each month in a year through the month following the month in which the annual revision of the official poverty line, referred to in subparagraph (A), is published.".

(2) CONFORMING AMENDMENTS.—Section 1902(m) of such Act (42 U.S.C. 1396a(m)) is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(C)" after "supplemental security income program", and

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

"(C) The provisions of section 1905(p)(2)(D) shall apply to determinations of income under this subsection in the same manner as they apply to determinations of income under section 1905(p).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after January 1, 1991, without regard to whether or not regulations to implement such amendments are promulgated by such date; except that the amendments made by subsection (d) shall apply to determinations of income for months beginning with January 1991.

PART 3—IMPROVEMENTS IN CHILD HEALTH

SEC. 4421. PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 6401(a) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(1) in subsection (a)(10)(A)(i)—

(A) by striking "or" at the end of subclause (V),

(B) by striking the semicolon at the end of subclause (VI) and inserting ", or", and

(C) by adding at the end the following new subclause:

"(VII) who are described in subparagraph (D) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(C) for such a family;";

(2) in subsection (a)(10)(A)(ii)(IX), by striking "or clause (i)(VI)" and inserting ", clause (i)(VI), or clause (i)(VII)";

(3) in subsection (l)—

(A) by amending subparagraph (D) of paragraph (1) to read as follows:

"(D) children born after September 30, 1983, who have attained one year of age but have not attained 13 years of age,";

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

"(C) For purposes of paragraph (1) with respect to individuals described in subparagraph (D) of that paragraph, the State shall establish an income level which is equal to the 100 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.";

(C) in paragraph (3)—

(i) by inserting ", (a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI)", and

(ii) in subparagraph (E), by striking "the methodology employed" and inserting "a methodology which is no more restrictive than the methodology employed";

(D) in paragraph (4)(A), by inserting "or subsection (a)(10)(A)(i)(VII)" after "(a)(10)(A)(i)(VI)"; and

(E) in paragraph (4)(B), by striking "or (a)(10)(A)(i)(VI)" after ", (a)(10)(A)(i)(VI), or (a)(10)(A)(i)(VII)"; and

(4) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI),".

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended—

(A) by striking "1902(a)(10)(A)(i)(IV)," and inserting "1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V),", and

(B) by inserting after "1902(a)(10)(A)(i)(VI)," the following: "1902(a)(10)(A)(i)(VII), 1902(a)(1)(A)(ii)(I),",

(2) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925 of such Act (42 U.S.C. 1396r-6), as amended by section 6411(i)(3) of the Omnibus Budget Reconciliation Act of 1989, are each amended by inserting "(i)(VII)," after "(i)(VI)".

(c) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2)(A) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before 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 the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(B) In the case of the State of Texas, the State plan shall not be regarded as failing to comply with the requirements of title XIX of the Social Security Act solely on the basis of its failure to meet the additional requirements imposed by the amendments made by this section before September 1, 1991.

SEC. 4422. MANDATORY CONTINUATION OF BENEFITS THROUGHOUT PREGNANCY OR FIRST YEAR OF LIFE.

(a) IN GENERAL.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended—

(1) in the first sentence of paragraph (4), by inserting "(or would remain if pregnant)" after "remains"; and

(2) in paragraph (6)—

(A) by striking "At the option of a State, in" and inserting "In";

(B) by striking "the State plan may nonetheless treat the woman as being" and inserting "the woman shall be deemed to continue to be"; and

(C) by adding at the end the following new sentence: "The preceding sentence shall not apply in the case of a woman who has been provided ambulatory prenatal care pursuant to section 1920 during a presumptive eligibility period and is then, in accordance with such section, determined to be ineligible for medical assistance under the State plan.".

(b) EFFECTIVE DATE.—

(1) INFANTS.—The amendment made by subsection (a)(1) shall apply to individuals born on or after January 1, 1991, without regard to whether final regulations to carry out such amendment have been promulgated by such date.

(2) PREGNANT WOMEN.—The amendments made by subsection (a)(2) shall apply with respect to determinations to terminate the eligibility of women, based on change of income, made on or after January 1, 1991, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

SEC. 4423. MANDATORY USE OF OUTREACH LOCATIONS OTHER THAN WELFARE OFFICES.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 4401(a)(2) of this title, is amended—

(1) by striking "and" at the end of paragraph (53),

(2) by striking the period at the end of paragraph (54) and inserting "; and", and

(3) by inserting after paragraph (54) the following new paragraph:

"(55) provide for receipt and initial processing of applications of individuals for medical assistance under subsections (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(ii)(IX)—

"(A) at locations which are other than those used for the receipt and processing of applications for aid under part A of title IV and which include facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(l)(2)(B), and

"(B) using applications which are other than those used for applications for aid under such part.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 4424. PRESUMPTIVE ELIGIBILITY.

(a) EXTENSION OF PRESUMPTIVE ELIGIBILITY PERIOD.—Section 1920 of the Social Security Act (42 U.S.C. 1396r-1) is amended—

(1) in subsection (b)(1)(B)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by amending clause (iii) to read as follows:

"(ii) in the case of a woman who does not file an application by the last day of the month following the month during which the provider makes the determination referred to in subparagraph (A), such last day; and"; and

(2) in subsections (c)(2)(B) and (c)(3), by striking "within 14 calendar days after the date on which" and inserting "by not later than the last day of the month following the month during which".

(b) FLEXIBILITY IN APPLICATION.—Section 1920(c)(3) of such Act (42 U.S.C. 1396r-1(c)(3)) is amended by inserting before the period at the end the following: ", which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1)(A)".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) apply to payments under title XIX of

the Social Security Act for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The amendment made by subsection (b) shall be effective as if included in the enactment of section 9407(b) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4425. ROLE IN PATERNITY DETERMINATIONS.

(a) IN GENERAL.—Section 1912(a)(1)(B) of the Social Security Act (42 U.S.C. 1396k(a)(1)(B)) is amended by inserting "the individual is described in section 1902(l)(1)(A) or" after "unless (in either case)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4426. REPORT AND TRANSITION ON ERRORS IN ELIGIBILITY DETERMINATIONS.

(a) REPORT.—The Secretary of Health and Human Services shall report to Congress, by not later than July 1, 1991, on error rates by States in determining eligibility of individuals described in subparagraph (A) or (B) of section 1902(l)(1) of the Social Security Act for medical assistance under plans approved under title XIX of such Act. Such report may include data for medical assistance provided before July 1, 1989.

(b) ERROR RATE TRANSITION.—There shall not be taken into account, for purposes of section 1903(u) of the Social Security Act, payments and expenditures for medical assistance which—

(1) are attributable to medical assistance for individuals described in subparagraph (A) or (B) of section 1902(l)(1) of such Act, and

(2) are made on or after July 1, 1989, and before the first calendar quarter that begins more than 12 months after the date of submission of the report under subsection (a).

PART 4—NURSING HOME REFORM PROVISIONS

SEC. 4431. MEDICAID NURSING HOME REFORM.

(a) NURSE AIDE TRAINING.—

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(1)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing requirements under section 1919(f)(2)(A)(ii)(I) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(2) CLARIFICATION OF GRACE PERIOD FOR NURSE TRAINING OF INDIVIDUALS.—Section 1919(b)(5)(A) of the Social Security Act (42 U.S.C. 1396r(b)(5)(A)) is amended—

(A) by striking "for more than 4 months", and

(B) by striking the period at the end and inserting a semicolon and the following: "except that such requirement shall not apply to an individual who has been used (on a full-time, temporary, per diem, or other basis) as a nurse aide for less than 90 days in any nursing facility.".

(3) CLARIFICATION OF NURSE AIDES NOT SUBJECT TO CHARGES.—Section 1919(f)(2)(A)(iv)(II) of such Act (42 U.S.C. 1396r(f)(2)(A)(iv)(II)) is amended by inserting after "nurse aide" the following: "who is employed by (or who has entered into an employment agreement with) a facility".

(4) MODIFICATION OF NURSING FACILITY DEFICIENCY STANDARDS.—Section 1919(f)(2)(B)(iii)(I) of such Act (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended to read as follows:

"(I) offered by or in a nursing facility which, within the previous 2 years, has operated under a waiver under subsection (b)(4)(C)(ii) or has been subject to an extended (or partial extended) survey under subsection (g)(2)(B)(i), or".

(5) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY.—Section 1919(f)(2)(B) of such Act (42 U.S.C. 1396r(f)(2)(B)) is amended, in the second sentence, by inserting "(through subcontract or otherwise)" after "may not delegate".

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(b) PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW.—

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 or section 1919(e)(7)(D) of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(7)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing minimum criteria under section 1919(f)(8)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(2) CLARIFICATION WITH RESPECT TO ADMISSIONS AND READMISSION FROM A HOSPITAL.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(A) in subsection (b)(3)(F), by striking "A nursing facility" and by inserting "Except as provided in clauses (ii) and (iii) of subsection (e)(7)(A), a nursing facility"; and

(B) in subsection (e)(7)(A)—

(i) by redesignating the first 2 sentences as clause (i) with the following heading (and appropriate indentation):

"(i) IN GENERAL.—", and

(ii) by adding at the end the following:

"(ii) CLARIFICATION WITH RESPECT TO CERTAIN READMISSIONS.—The preadmission screening program under clause (i) need not provide for determinations in the case of the readmission to a nursing facility of an individual who, after being admitted to the nursing facility, was transferred for care in a hospital.

"(iii) EXCEPTION FOR CERTAIN HOSPITAL DISCHARGES.—The preadmission screening program under clause (i) shall not apply to the admission to a nursing facility of an individual—

"(I) who is admitted to the facility directly from a hospital after receiving acute inpatient care at the hospital,

"(II) who requires nursing facility services for the condition for which the individual received care in the hospital, and

"(III) whose attending physician has certified, before admission to the facility, that the individual is likely to require less than 30 days of nursing facility services.".

(3) DELAY IN APPLICATION TO PRIVATE PAY RESIDENTS.—

(A) IN GENERAL.—Section 1919(e)(7) of such Act (42 U.S.C. 1396r(e)(7)) is amended—

(i) in subparagraph (A), as amended by paragraph (2)(B) of this subsection—

(I) in clause (i), by inserting "except as provided in clause (iv)," after "January 1, 1989,", and

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

"(iv) DELAY IN APPLICATION OF PREADMISSION SCREENING FOR PRIVATE PAY RESIDENTS.—In the case of an individual who, at the time of admission to a nursing facility, is not entitled to benefits under this title, the preadmission screening requirements of this subparagraph shall not apply until such time as the resident is so entitled and, in such case, the preadmission screening requirements shall apply as of the end of the day following the date on which the individual is determined to be so entitled. The previous sentence shall not be construed as prohibiting a State from imposing such a preadmission screening requirement with respect to individuals not so entitled at the time of admission."; and

(ii) in subparagraph (B)—

(I) in clauses (i) and (ii), by inserting "except as provided in clause (iv)," after "April 1, 1990," each place it appears,

(II) in clause (iii)(III), by inserting ", except as provided in clause (iv)" after "April 1, 1990", and

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

"(iv) DELAY IN APPLICATION OF ANNUAL RESIDENT REVIEW FOR PRIVATE PAY RESIDENTS.—In the case of an individual who, at the time of admission to a nursing facility, is not entitled to benefits under this title, the annual resident review requirements of this subparagraph shall not apply until such time as the resident is so entitled. The previous sentence shall not be construed as prohibiting a State from imposing such an annual resident review requirement with respect to individuals not so entitled at the time of admission.".

(B) NO COMPLIANCE ACTION FOR PREVIOUS NONCOMPLIANCE.—The Secretary of Health and Human Services may not impose any sanction against a State under section 1904 or section 1919(e)(7)(D) of the Social Security Act due to the State's failure to comply with the preadmission screening requirements of section 1919(e)(7)(A) of such Act insofar as such requirements applied with respect to individuals not entitled to benefits under title XIX of such Act at the time of their admission.

(4) DENIAL OF PAYMENTS FOR CERTAIN RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES.—Section 1919(e)(7) of such Act (42 U.S.C. 1395r(e)(7)) is amended—

(A) in subparagraph (D)—

(i) in the heading, by striking "WHERE FAILURE TO CONDUCT PREADMISSION SCREENING",

(ii) by designating the first sentence as clause (i) with the following heading (and appropriate indentation):

"(i) FOR FAILURE TO CONDUCT PREADMISSION SCREENING OR ANNUAL REVIEW.—", and

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

"(ii) FOR CERTAIN RESIDENTS NOT REQUIRING NURSING FACILITY LEVEL OF SERVICES.—No payment may be made under section 1903(a) with respect to nursing facility services furnished to an individual (other than an individual described in subparagraph (C)(i)) who does not require the level of services provided by a nursing facility."; and

(B) in subparagraph (E), by striking "the requirement of this paragraph" and inserting "the requirements of subparagraphs (A) through (C) of this paragraph".

(5) NO DELEGATION OF AUTHORITY TO CONDUCT SCREENING AND REVIEWS.—Section 1919 of such Act is further amended—

(A) in subsection (b)(3)(F), by adding at the end the following:

"A State mental health authority and a State mental retardation or developmental disability authority may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or

indirect affiliation or relationship with such a facility)."; and

(B) in subsection (e)(7)(B), as amended by paragraph (3)(A)(ii) of this subsection, by adding at the end the following new clause:

"(v) PROHIBITION OF DELEGATION.—A State mental health authority, a State mental retardation or developmental disability authority, and a State may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).".

(6) ANNUAL REPORTS.—

(A) STATE REPORTS.—Section 1919(e)(7)(C) of such Act (42 U.S.C. 1396r(e)(7)(C)) is amended by adding at the end the following new clause:

"(iv) ANNUAL REPORT.—Each State shall report to the Secretary annually concerning the number and disposition of residents described in each of clauses (ii) and (iii).".

(B) SECRETARIAL REPORT.—Section 4215 of the Omnibus Budget Reconciliation Act of 1987 is amended by adding at the end the following new sentence: "Each such report shall also include a summary of the information reported by States under section 1919(e)(7)(C)(iv) of such Act.".

(7) REVISION OF ALTERNATIVE DISPOSITION PLANS.—Section 1919(e)(7)(E) of the Social Security Act (42 U.S.C. 1396r(e)(7)(E)) is amended by adding at the end the following: "The State may revise such an agreement, subject to the approval of the Secretary, before October 1, 1991, but only if, under the revised agreement, all residents subject to the agreement who do not require the level of services of such a facility are discharged from the facility by not later than April 1, 1994.".

(8) DEFINITION OF MENTALLY ILL.—Section 1919(e)(7)(G)(i) of such Act (42 U.S.C. 1396r(e)(7)(G)(i)) is amended by striking "primary or secondary" and all that follows through "3rd edition)" and inserting "serious mental illness (as defined by the Secretary)".

(9) SUBSTITUTION OF "SPECIALIZED SERVICES" FOR "ACTIVE TREATMENT".—Sections 1919(b)(3)(F) and 1919(e)(7) of such Act (42 U.S.C. 1396r(b)(3)(F), 1396r(e)(7)) are each amended by striking "active treatment" and "ACTIVE TREATMENT" each place either appears and inserting "specialized services" and "SPECIALIZED SERVICES", respectively.

(10) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(B) EXCEPTION.—The amendments made by paragraphs (3), (5), (7), and (9) shall take effect on the date of the enactment of this Act, without regard to whether or not regulations to implement such amendments have been promulgated.

(c) ENFORCEMENT PROCESS.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 of the Social Security Act on the basis of the State's failure to meet the requirements of section 1919(h)(2) of such Act before the effective date of guidelines, issued by the Secretary, regarding the establishment of remedies by the State under such section, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirements before such effective date.

(d) SUPERVISION OF HEALTH CARE OF RESIDENTS OF NURSING FACILITIES BY NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS ACTING IN COLLABORATION WITH PHYSICIANS.—

(1) IN GENERAL.—Section 1919(b)(6)(A) of such Act (42 U.S.C. 1396r(b)(6)(A)) is amended by inserting "(or, at the option of a State, under the supervision of a nurse practitioner or clinical nurse specialist who is not an employee of the facility but who is working in collaboration with a physician)" after "physician".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies with respect to nursing facility services furnished on or after October 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(e) OTHER AMENDMENTS.—

(1) ASSURANCE OF APPROPRIATE PAYMENT AMOUNTS.—

(A) IN GENERAL.—Section 1902(a)(13)(A) of the Social Security Act (42 U.S.C. 1396a(a)(13)(A)) is amended by inserting "(including the costs of services required to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident eligible for benefits under this title)" after "take into account the costs".

(B) DETAILS IN PLAN AMENDMENT.—Section 4211(b)(2) of the Omnibus Budget Reconciliation Act of 1987 is amended by inserting after the first sentence the following: "Each such amendment shall include a detailed description of the specific methodology to be used in determining the appropriate adjustment in payment amounts for nursing facility services.".

(2) DISCLOSURE OF INFORMATION OF QUALITY ASSESSMENT AND ASSURANCE COMMITTEES.—Section 1919(b)(1)(B) of the Social Security Act (42 U.S.C. 1396r(b)(1)(B)) is amended by adding at the end the following new sentence: "A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this subparagraph.".

(3) PERIOD FOR RESIDENT ASSESSMENT.—Section 1919(b)(3)(C)(i)(I) of such Act (42 U.S.C. 1396r(b)(3)(C)(i)(I)) is amended by striking "4 days" and inserting "14 days".

(4) CLARIFICATION OF RESPONSIBILITY FOR SERVICES FOR MENTALLY ILL AND MENTALLY RETARDED RESIDENTS.—Section 1919(b)(4)(A) of such Act (42 U.S.C. 1396r(b)(4)(A)) is amended—

(A) by striking "and" at the end of clause (v),

(B) by striking the period at the end of clause (vi) and inserting "; and", and

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

"(vii) treatment and services required by mentally ill and mentally retarded residents not otherwise provided or arranged for (or required to be provided or arranged for) by the State.".

(5) CLARIFICATION OF EXTENT OF STATE WAIVER AUTHORITY.—Section 1919(b)(4)(C)(ii) of such Act (42 U.S.C. 1396r(b)(4)(C)(ii)) is amended by striking "A State" and all that follows through "a facility if" and inserting "To the extent that a facility is unable to meet the requirements of clause (i), a State may waive such requirements with respect to the facility if".

(6) CLARIFICATION OF DEFINITION OF NURSE AIDE.—Section 1919(b)(5)(F)(i) of such Act (42 U.S.C. 1396r(b)(5)(F)(i)) is amended by striking "(G))," and inserting "(G)) or a registered dietician,".

(7) CLARIFICATION OF REQUIREMENTS FOR SOCIAL SERVICES STAFF.—Section 1919(b)(7) of such Act (42 U.S.C. 1396r(b)(7)) is amended by striking "one social worker" and all that follows and inserting the following: "one individual employed full-time to provide or assure the provision of social services who—

"(A) is a social worker with at least a bachelor's degree in social work or similar professional qualifications; or

"(B) is provided with on-going consultation and assistance in providing such services by a social worker (with the qualifications described in subparagraph (A)) employed by the facility.".

(8) CHARGES APPLICABLE IN CASES OF CERTAIN MEDICAID-ELIGIBLE INDIVIDUALS.—

(A) IN GENERAL.—Section 1919(c) of such Act (42 U.S.C. 1396r(c)) is amended—

(i) by redesignating paragraph (7) as paragraph (8), and

(ii) by inserting after paragraph (6) the following new paragraph:

"(7) LIMITATION ON CHARGES IN CASE OF MEDICAID-ELIGIBLE INDIVIDUALS.—

"(A) IN GENERAL.—A nursing facility may not impose charges, for certain medicaid-eligible individuals for nursing facility services covered by the State under its plan under this title, that exceed the payment amounts established by the State for such services under this title.

"(B) CERTAIN MEDICAID INDIVIDUALS DEFINED.—In subparagraph (A), the term 'certain medicaid-eligible individual' means an individual who is entitled to medical assistance for nursing facility services in the facility under this title but with respect to whom such benefits are not being paid because, in determining the amount of the individual's income to be applied monthly to payment for the costs of such services, the amount of such income exceeds the payment amounts established by the State for such services under this title.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect on the date of the enactment of this Act, without regard to whether or not regulations to implement such amendments have been promulgated.

(9) RESIDENTS' RIGHTS TO REFUSE INTRA-FACILITY TRANSFERS TO MOVE THE RESIDENT TO A MEDICARE-QUALIFIED PORTION.—Section 1919(c)(1)(A) of such Act (42 U.S.C. 1396r(c)(1)(A)) is amended—

(A) by redesignating clause (x) as clause (xi) and by inserting after clause (ix) the following new clause:

"(x) REFUSAL OF CERTAIN TRANSFERS.—The right to refuse a transfer to another room within the facility, if a purpose of the transfer is to relocate the resident from a portion of the facility that is not a skilled nursing facility (for purposes of title XVIII) to a portion of the facility that is such a skilled nursing facility."; and

(B) by adding at the end the following: "A resident's exercise of a right to refuse transfer under clause (x) shall not affect the resident's eligibility or entitlement to medical assistance under this title or a State's entitlement to Federal medical assistance under this title with respect to services furnished to such a resident.".

(10) RESIDENTS' RIGHTS REGARDING ADVANCE DIRECTIVES.—Section 1919(c)(1) of such Act (42 U.S.C. 1396r(c)(1)), as amended by paragraph (9), is amended—

(A) in subparagraph (A)—

(i) by redesignating clause (xi) as clause (xii), and

(ii) by inserting after clause (x) the following new clause:

"(xi) ADVANCE DIRECTIVES.—The right to compliance by the facility with the provisions of an advance directive."; and

(B) by adding at the end the following new subparagraph:

"(E) DEFINITION.—In this paragraph, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the

provision of such care when the individual is incapacitated.".

(11) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1919(c)(1)(A)(iv) of such Act (42 U.S.C. 1396r(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and to access to current clinical records of the resident promptly upon request by the resident".

(12) INCLUSION OF STATE NOTICE OF RIGHTS IN FACILITY NOTICE OF RIGHTS.—Section 1919(c)(1)(B)(ii) of such Act (42 U.S.C. 1396r(c)(1)(B)(ii)) is amended by inserting "including the notice (if any) of the State developed under subsection (e)(6)" after "in such rights)".

(13) REMOVAL OF DUPLICATIVE REQUIREMENT FOR QUALIFICATIONS OF NURSING HOME ADMINISTRATORS.—Effective October 1, 1990—

(A) paragraph (29) of section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is repealed, and

(B) section 1908 of such Act (42 U.S.C. 1396g) is repealed.

(14) CLARIFICATION OF NURSE AIDE REGISTRY REQUIREMENTS.—Section 1919(e)(2) of such Act (42 U.S.C. 1396r(e)(2)) is amended—

(A) in subparagraph (A), by striking the period and inserting the following: ", or any individual described in subsection (f)(2)(B)(ii) or in subparagraph (B) or (C) of section 6901(b)(4) of the Omnibus Budget Reconciliation Act of 1989." and

(B) by adding at the end the following new subparagraph:

"(C) PROHIBITION AGAINST CHARGES.—A State may not impose any charges on a nurse aide relating to the registry established and maintained under subparagraph (A).".

(15) CLARIFICATION ON FINDINGS OF NEGLECT.—Section 1919(g)(1)(C) of such Act (42 U.S.C. 1396r(g)(1)(C)) is amended by adding at the end the following: "A State shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.".

(16) TIMING OF PUBLIC DISCLOSURE OF SURVEY RESULTS.—Section 1919(g)(5)(A)(i) of such Act (42 U.S.C. 1396r(g)(5)(A)(i)) is amended by striking "deficiencies and plans" and inserting "deficiencies, within 14 calendar days after such information is made available to those facilities, and approved plans".

(17) DENIAL OF PAYMENT OF LEGAL FEES FOR FRIVOLOUS LITIGATION.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)), as amended by section 4401(a)(1)(B) of this title, is amended—

(A) by striking "or" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; or"; and

(C) by inserting after paragraph (10) the following new paragraph:

"(11) with respect to any amount expended to reimburse (or otherwise compensate) a nursing facility for payment of legal expenses associated with any action initiated by the facility that is dismissed on the basis that no reasonable legal ground existed for the institution of such action."

(18) EFFECTIVE DATES.—The amendments made by this subsection (other than by paragraphs (8) and (13)) shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

PART 5—MISCELLANEOUS

Subpart A—Payments

SEC. 4441. STATE MEDICAID MATCHING PAYMENTS THROUGH VOLUNTARY CONTRIBUTIONS AND STATE TAXES.

(a) VOLUNTARY CONTRIBUTIONS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(s)(1)(A) Subject to subparagraphs (B) and (C), financial participation described in subsection (a)(2) may include the application of private funds donated by hospitals to, and subject to the unrestricted control of, the State.

"(B) Financial participation—

"(i) may not include donations to the extent their aggregate amount exceeds in any Federal fiscal year 10 percent of the non-Federal portion of expenditures under the plan in the year, and

"(ii) may not include donations made by, or on behalf of, or with respect to, any particular hospital, to the extent that their aggregate amount in an annual cost reporting period exceeds 10 percent of the gross revenues of the hospital (not taking into account any Federal revenues under this title or under title V or title XVIII).

"(C) For purposes of this paragraph, the fact that a hospital may receive some benefit from a transfer of funds to a State shall not prevent the transfer from being treated as the donation of funds, unless the amount of benefit to the hospital is directly related, in timing and amount, to the timing and amount of the transfer.".

(b) STATE TAX CONTRIBUTIONS.—Section 1902(s) of such Act, added by the amendment made by subsection (a), is amended by adding at the end the following new paragraph:

"(2) Nothing in this title (including sections 1903(a) and 1905(a)) shall be construed as authorizing the Secretary to deny or limit payments to a State for expenditures, for medical assistance for items or services, attributable to taxes (whether or not of general applicability) imposed with respect to the provision of such items or services.".

(c) EFFECTIVE DATES.—

(1) VOLUNTARY CONTRIBUTION.—The amendment made by subsection (a) shall apply to funds donated on or after January 1, 1991.

(2) STATE TAX CONTRIBUTION.—The amendment made by subsection (b) shall take effect on January 1, 1991.

SEC. 4442. DISPROPORTIONATE SHARE HOSPITALS: COUNTING OF INPATIENT DAYS AND TREATMENT OF CAPITAL PASS-THROUGHS.

(a) CLARIFICATION OF MEDICAID DISPROPORTIONATE SHARE ADJUSTMENT CALCULATION.—Section 1923(b)(2) of the Social Security Act (42 U.S.C. 1396r-4(b)(2)) is amended by adding at the end the following new sentence: "In this paragraph, the term 'inpatient day' includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.".

(b) FEDERAL FINANCIAL PARTICIPATION FOR MEDICAID CAPITAL PAYMENTS.—Section 1902(h) of such Act (42 U.S.C. 1396a(h)) is amended by inserting "(including pass-through payments for capital costs)" after "payment adjustments".

(c) EFFECTIVE DATES.—

(1) CLARIFICATION OF INPATIENT DAYS.—The amendment made by subsection (a) shall take effect on July 1, 1990.

(2) FEDERAL FINANCIAL PARTICIPATION.—The amendment made by subsection (b) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1981.

SEC. 4443. DISPROPORTIONATE SHARE HOSPITALS: ALTERNATIVE STATE PAYMENT ADJUSTMENTS AND SYSTEMS.

(a) ALTERNATIVE STATE PAYMENT ADJUSTMENTS.—Section 1923(c) of the Social Security Act (42 U.S.C. 1396r-4(c)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) provide for a minimum specified additional payment amount (or increased percentage payment) based on a formula that takes into account the characteristics of patients of categories of disproportionate share hospitals in the State and that does not take into account (and is not related in timing or amount to) the amount or timing of any voluntary contribution directly or indirectly by such a hospital;".

(b) CLARIFICATION OF SPECIAL RULE FOR STATE USING HEALTH INSURING ORGANIZATION.—Section 1923(e)(2) of such Act (42 U.S.C. 1396r-4(e)(2)) is amended by striking "during the 3-year period".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 412(a)(2) of the Omnibus Budget Reconciliation Act of 1987.

SEC. 4444. DISPROPORTIONATE SHARE HOSPITALS: MINIMUM PAYMENT ADJUSTMENT FOR CERTAIN HOSPITALS.

Section 1923 of the Social Security Act (42 U.S.C. 1396r-4) is amended—

(1) in subsection (c), by striking "In order" and inserting "Except as provided in subsection (f), in order"; and

(2) by adding at the end the following new subsection:

"(f) MINIMUM PAYMENT ADJUSTMENT FOR CERTAIN HOSPITALS.—

"(1) AMOUNT OF PAYMENT.—In the case of a hospital described in paragraph (2), the appropriate increase in the rate or amount of payments required under subsection (a)(1)(B) shall be equal to at least one-half of the amount paid under the State plan to the hospital for operating costs for inpatient hospital services (of the kind described in section 1886(a)(4)), except that the aggregate payments made to such a hospital by a State during a fiscal year under the plan may not exceed the reasonable costs to such hospital of providing inpatient and outpatient hospital services to individuals eligible for benefits under this title during the year.

"(2) DESCRIPTION OF HOSPITAL.—A hospital described in this paragraph is a hospital that—

"(A) is a nonprofit, private entity which is not a teaching hospital;

"(B) has a medicaid inpatient utilization rate (as defined in subsection (b)(2)) of at least 45 percent;

"(C) has a private pay utilization rate (as defined in paragraph (3)) of not more than 8 percent; and

"(D) is located in a health manpower shortage area (as defined in section 332 of the Public Health Service Act) in a State which had a waiver approved and in effect under section 1915(b)(4) as of the date of the enactment of this subsection.

"(3) DEFINITION.—In paragraph (2)(C), the term 'private pay utilization rate' means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of inpatient days attributable to patients who (for such days) have private third party coverage of health benefits in a period, and the denominator of which is

the total number of the hospital's inpatient days in that period.".

(b) CONFORMING AMENDMENT.—Section 1923(b)(2) of such Act (42 U.S.C. 1396r-4(b)(2)) is amended by striking "(1)(A)" and inserting "(1)(A) and subsection (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after January 1, 1991, and before October 1, 1993, without regard to whether or not regulations to implement such amendments have been promulgated by such date.

SEC. 4445. FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) CLARIFICATION OF USE OF MEDICARE PAYMENT METHODOLOGY.—Section 1902(a)(13)(E) of the Social Security Act (42 U.S.C. 1396a(a)(13)(E)) is amended—

(1) by striking "may prescribe" the first place it appears and inserting "prescribes", and

(2) by striking "on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph" and inserting "on the same methodology used under section 1833(a)(3)".

(b) MINIMUM PAYMENT RATES BY HEALTH MAINTENANCE ORGANIZATIONS.—Section 1903(m)(2)(A) of such Act (42 U.S.C. 1396b(m)(2)(A)) is amended—

(1) by striking "and" at the end of clause (vii),

(2) by striking the period at the end of clause (viii) and inserting ", and", and

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

"(ix) such contract provides, in the case of an entity that is a Federally-qualified health center or that provides for services through arrangements with such a center, that (I) rates of prepayment from the State are adjusted to reflect fully the rates of payment specified in section 1902(a)(13)(E), and (II) payments made by the entity to such a center for services described in 1905(a)(2)(C) are made at the rates of payment specified in section 1902(a)(13)(E).".

(c) CLARIFICATION IN TREATMENT OF OUTPATIENTS.—Section 1905(1)(2) of such Act (42 U.S.C. 1396d(1)(2)) is amended—

(1) in subparagraph (A), by striking "outpatient" and inserting "patient (other than an inpatient)", and

(2) in subparagraph (B), by striking "facility" and inserting "entity".

(d) TREATMENT OF INDIAN TRIBES.—The first sentence of section 1905(1)(2)(B) of such Act (42 U.S.C. 1396d(1)(2)(B)) is amended—

(1) by striking the period at the end and inserting a comma, and

(2) by adding, after and below clause (ii), the following:

"and includes an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638).".

(e) TECHNICAL CORRECTION.—Section 6402 of the Omnibus Budget Reconciliation Act of 1989 is amended—

(1) by striking subsection (c), and

(2) by amending subsection (d) to read as follows:

"(c) EFFECTIVE DATE.—The amendments made by this section (except as otherwise provided in such amendments) shall take effect on the date of the enactment of this Act.".

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

SEC. 4446. HOSPICE PAYMENTS.

(a) IN GENERAL.—Section 1905(o)(3) of the Social Security Act (42 U.S.C. 1396d(o)(3)) is amended—

(1) by striking "a State which elects" and all that follows through "with respect to" the first place it appears,

(2) by striking "skilled nursing or intermediate care facility" in subparagraphs (A) and (C) and inserting "nursing facility or intermediate care facility for the mentally retarded";

(3) by striking "the amounts allocated under the plan for room and board in the facility, in accordance with the rates established under section 1902(a)(13)," and inserting "the additional amount described in section 1902(a)(13)(D)", and

(4) by striking the last sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the amendments made by section 6408(c)(1) of the Omnibus Budget Reconciliation Act of 1989.

SEC. 4447. LIMITATIONS ON DISALLOWANCE OF CERTAIN INPATIENT PSYCHIATRIC HOSPITAL SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services may not disallow or defer Federal financial participation under section 1903(a) of the Social Security Act for inpatient psychiatric hospital services for individuals under age 21 under paragraph (16) of section 1905(a) of such Act in a State in which the Inspector General of the Department of Health and Human Services has initiated or completed reviews or audits of such services (but for which services the Secretary has not issued a disallowance notice) as of October 11, 1990, on the ground that the facilities in the State did not meet the requirement of section 1905(h)(1)(B)(ii) of such Act, except as provided in subsection (b).

(b) LIMITATIONS ON DISALLOWANCE.—With respect to services described in subsection (a)—

(1) the Secretary may disallow or defer Federal financial participation only for services provided to an individual eligible under title XIX of the Social Security Act before the date the facility is able to document (through plan of care or utilization review procedures) that the services in the facility on an inpatient basis are necessary (as described in section 1905(h)(1)(B)(ii) of the Social Security Act);

(2) the Secretary may disallow or defer Federal financial participation only for services for which facilities in the State did not meet the requirement of section 1905(h)(1)(B)(ii) of such Act during the 3-year period ending on the date an audit is initiated with respect to such services; and

(3) the disallowance of Federal financial participation during the period in which the requirement of section 1905(h)(1)(B)(ii) of such Act was not met by facilities in the State with respect to such services may not exceed 25 percent of the amount of the disallowance that would otherwise be made in accordance with this section.

(c) EFFECTIVENESS.—This section shall apply to disallowance actions that are pending or for which there has not been a final judicial decision as of the date of the enactment of this Act.

SEC. 4448. TREATMENT OF INTEREST ON INDIANA DISALLOWANCE.

With respect to any disallowance of Federal financial participation under section 1903(a) of the Social Security Act for intermediate care facility services, intermediate care facility services for the mentally retarded, or skilled nursing facility services on the ground that the facilities in the State of Indiana were not certified in accordance with law during the period beginning June 1, 1982, and ending September 30, 1984, payment of such disallowance may be deferred without interest that would otherwise accrue without regard to this subsection, until every opportunity to appeal has been exhausted.

Subpart B—Eligibility and Coverage

SEC. 4451. PROVIDING FEDERAL MEDICAL ASSISTANCE FOR PAYMENTS FOR PREMIUMS FOR "COBRA" CONTINUATION COVERAGE WHERE COST EFFECTIVE.

(a) OPTIONAL PAYMENT OF COBRA PREMIUMS FOR QUALIFIED COBRA CONTINUATION BENEFICIARIES.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)—

(A) by striking "and" at the end of subparagraph (D),

(B) by adding "and" at the end of subparagraph (E),

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

"(F) at the option of a State, for making medical assistance available for COBRA premiums (as defined in subsection (t)(2)) for qualified COBRA continuation beneficiaries described in section 1902(t)(1);", and

(D) in the matter following subparagraph (E), by striking "and" before "(X)" and by inserting before the semicolon at the end the following: ", and (XI) the medical assistance made available to an individual described in subsection (t)(1) who is eligible for medical assistance only because of subparagraph (F) shall be limited to medical assistance for COBRA continuation premiums (as defined in subsection (t)(2))"; and

(2) by adding after the subsection added by section 4441(a) the following new subsection:

"(t)(1) Individuals described in this paragraph are individuals—

"(A) who are entitled to elect COBRA continuation coverage (as defined in paragraph (3)),

"(B) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 100 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

"(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual may have and obtain benefits under that program, and

"(D) with respect to whose enrollment for COBRA continuation coverage the State has determined that the savings in expenditures under this title resulting from such enrollment is likely to exceed the amount of payments for COBRA premiums made.

"(2) For purposes of subsection (a)(10)(F) and this subsection, the term 'COBRA premiums' means the applicable premium imposed with respect to COBRA continuation coverage.

"(3) In this subsection, the term 'COBRA continuation coverage' means coverage under a group health plan provided pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974.

"(4) Notwithstanding subsection (a)(17), for individuals described in paragraph (1) who are covered under the State plan by virtue of subsection (a)(10)(A)(ii)(XI)—

"(A) the income standard to be applied is the income standard described in paragraph (1)(B), and

"(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(10)(B) or (a)(17), require or permit such treatment for other individuals.".

(b) CONFORMING AMENDMENT.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended—

(1) by striking "or" at the end of clause (viii),

(2) by adding "or" at the end of clause (ix), and

(3) by inserting after clause (ix) the following new clause:

"(x) individuals described in section 1902(t)(1),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished on or after January 1, 1991.

SEC. 4452. PROVISIONS RELATING TO SPOUSAL IMPOVERISHMENT.

(a) CLARIFICATION OF NON-APPLICATION OF STATE COMMUNITY PROPERTY LAWS.—Section 1924(b)(2) of the Social Security Act (42 U.S.C. 1396r-5(b)(2)) is amended in the matter preceding subparagraph (A) by striking "spouse," and inserting "spouse for purposes of this section,".

(b) CLARIFICATION OF TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—Section 1924(f)(1) of such Act (42 U.S.C. 1396r-5(f)(1)) is amended by striking "section 1917" and inserting "section 1917(c)(1)".

(c) CLARIFICATION OF PERIOD OF CONTINUOUS ELIGIBILITY.—Section 1924(c)(1) of such Act (42 U.S.C. 1396r-1(c)(1)) is amended by striking "the beginning of a continuous period of institutionalization of the institutionalized spouse" each place it appears and inserting "the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse".

(d) EFFECTIVE DATE.—The amendments made this section shall take effect as if included in the enactment of section 303 of the Medicare Catastrophic Coverage Act of 1988.

SEC. 4453. DISREGARDING GERMAN REPARATION PAYMENTS FROM POST-ELIGIBILITY TREATMENT OF INCOME UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1902(r)(1) of the Social Security Act (42 U.S.C. 1396a) is amended by inserting "there shall be disregarded reparation payments made by the Federal Republic of Germany and" after "under such a waiver".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to treatment of income for months beginning more than 30 days after the date of the enactment of this Act.

SEC. 4454. AMENDMENTS RELATING TO MEDICAID TRANSITION PROVISION.

(a) REPEAL OF SUNSET.—Subsection (f) of section 1925 of the Social Security Act (42 U.S.C. 1396s) is repealed.

(b) ADDITIONAL AMENDMENTS.—Such section is further amended—

(1) in subsection (b)(2)(B)(i), by inserting at the end the following: "A State may permit such additional extended assistance under this subsection notwithstanding a failure to report under this clause if the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis.";

(2) in subsection (b)(2)(B), by adding at the end the following new clause:

"(iii) CLARIFICATION ON FREQUENCY OF REPORTING.—A State may not require that a family receiving extended assistance under this subsection or subsection (a) report more frequently than as required under clause (i) or (ii).";" and

(3) in subsection (b)(3)(B), by adding at the end the following: "No such termination shall be effective earlier than 10 days after the date of mailing of such notice.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall be effective as if included in the enactment of the Family Support Act of 1988.

SEC. 4455. CLARIFYING EFFECT OF HOSPICE ELECTION.

Section 1905(o)(1)(A) of the Social Security Act (42 U.S.C. 1396d(o)(1)(A)) is amended by inserting "and for which payment may otherwise be made under title XVIII" after "described in section 1812(d)(2)(A)".

SEC. 4456. CLARIFICATION OF APPLICATION OF 133 PERCENT INCOME LIMIT TO MEDICALLY NEEDY.

(a) IN GENERAL.—Section 1903(f) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended—

(1) in paragraph (1), by striking "Except as provided in paragraph (4)" and inserting "Subject to paragraph (4)", and

(2) in paragraph (4), by striking "shall not apply" and all that follows through the end and inserting "shall only apply with respect to any amount expended by a State as medical assistance for an individual who is only eligible for such assistance as an individual described in section 1902(a)(10)(C) at the time of the provision of the medical assistance giving rise to such expenditure.".

(b) CONFORMING AMENDMENTS.—Section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) in subclause (V), by striking "whose income does not exceed a separate income standard established by the State which is consistent with the limit established under section 1903(f)(4)(C)" and inserting "whose income does not exceed a separate income standard established by the State, which income (as determined under section 1612, but without regard to subsection (b) thereof) does not exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1)", and

(2) in subclauses (VI) and (VII), by inserting "(applying the resource and income standards applicable under subclause (V))" after "in a medical institution".

(c) ADDITIONAL CONFORMING AMENDMENT.—Effective as if included in the enactment of section 303(e) of the Medicare Catastrophic Coverage Act of 1988, section 1902(f) of the Social Security Act (42 U.S.C. 1396a(f)) is amended by striking "subsection (e)" and inserting "subsections (e) and (r)(2)".

(d) MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN 1-MEMBER FAMILIES.—

(1) IN GENERAL.—For purposes of section 1903(f)(1)(B) of the Social Security Act, for payments made before, on, or after the date of the enactment of this Act, a State described in subparagraph (B) may use, in determining the "highest amount which would ordinarily be paid to a family of the same size" (under the State's plan approved under part A of title IV of such Act) in the case of a family consisting only of one individual and without regard to whether or not such plan provides for aid to families consisting only of one individual, an amount reasonably related to the highest money payment which would ordinarily be made under such a plan to a family of two without income or resources.

(2) STATES COVERED.—Paragraph (1) shall only apply to a State the State plan of which (under title XIX of the Social Security Act) as of June 1, 1989, provided for the policy described in such paragraph. For purposes of the previous sentence, a State plan includes all the matter included in a State plan under section 2373(c)(5) of the Deficit Reduction Act of 1984 (as amended by section 9 of the Medicare and Medicaid Patient and Program Protection Act of 1987).

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4457. CODIFICATION OF COVERAGE OF REHABILITATION SERVICES.

(a) IN GENERAL.—Section 1905(a)(13) of the Social Security Act (42 U.S.C. 1396d(a)(13)) is amended by inserting before the semicolon at the end the following: ", including any medical or remedial services (provided in a facility, a home, or other setting) recommended by a physician or other licensed practitioner of the healing arts within the scope of their practice under State law, for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4458. PERSONAL CARE SERVICES FOR MINNESOTA.

(a) CLARIFICATION OF COVERAGE.—In applying section 1905 of the Social Security Act with respect to Minnesota, medical assistance shall include payment for personal care services described in subsection (b).

(b) PERSONAL CARE SERVICES DEFINED.—For purposes of this section, the term "personal care services" means services—

(1) prescribed by a physician for an individual in accordance with a plan of treatment,

(2) provided by a person who is qualified to provide such services who is not a member of the individual's family,

(3) supervised by a registered nurse, and

(4) furnished in a home or other location; but does not include such services furnished to an inpatient or resident of a hospital or nursing facility.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act and shall also apply to personal care services furnished before such date pursuant to regulations in effect as of July 1, 1989.

Subpart C—Health Maintenance Organizations

SEC. 4461. REQUIREMENTS FOR RISK-SHARING HEALTH MAINTENANCE ORGANIZATIONS UNDER MEDICAID.

(a) HMO MINIMUM MEMBERSHIP REQUIREMENTS.—Section 1903(m)(2)(A) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)) is amended—

(1) by striking ", and" at the end of clause (vii) and inserting a semicolon;

(2) by striking the period at the end of clause (viii) and inserting "; and"; and

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

"(ix) such entity has at least 5,000 members, except that the Secretary may make payment under this title for services provided by an entity that has fewer members if the entity primarily serves members residing in a rural area.".

(b) APPLICATION OF MINIMUM ENROLLMENT, PATIENT MIX, AND FINANCIAL SOLVENCY REQUIREMENTS TO RISK-SHARING SUBCONTRACTORS.—Section 1903(m)(2)(A) of such Act (42 U.S.C. 1396b(m)(2)(A)), as amended by subsection (a), is further amended—

(1) by striking "and" at the end of clause (viii);

(2) by striking the period at the end of clause (ix) and inserting "; and"; and

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

"(x) in the case of services provided by an entity that has entered into an agreement for the provision of such services with an-

other entity (other than an entity described in subparagraph (B)) under which payment to the other entity for such services is determined under a prepaid capitation basis or under any other risk basis—

"(I) the other entity meets the requirements of clauses (ii) and (ix), and

"(II) if the other entity is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), such other entity meets the requirements of paragraph (1)(A)(ii) and paragraph (4).".

(c) DELAY IN IMPLEMENTATION OF PROHIBITION AGAINST PHYSICIAN INCENTIVE PAYMENTS.—Section 1128A(b) of such Act (42 U.S.C. 1320a-7a(b)) is amended by adding at the end the following new paragraph:

"(3) With respect to an entity with a contract under section 1903(m), paragraph (1) shall apply to payments made by such an entity on or after April 1, 1992.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contract years beginning on or after January 1, 1991.

SEC. 4462. SPECIAL RULES.

(a) WAIVER OF 75 PERCENT RULE FOR PUBLIC ENTITIES.—Section 1903(m)(2)(D) of the Social Security Act (42 U.S.C. 1396b(m)(2)(D)) is amended by striking "(i) special circumstances warrant such modification or waiver, and (ii)".

(b) EXTENDING SPECIAL TREATMENT TO MEDICARE COMPETITIVE MEDICAL PLANS.—

(1) 6-MONTH MINIMUM ENROLLMENT PERIOD OPTION.—Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by inserting "or with an eligible organization with a contract under section 1876" after "1903(m)(2)(A)".

(2) ENROLLMENT LOCK-IN.—Section 1903(m)(2)(F)(i) of such Act (42 U.S.C. 1396b(m)(2)(F)(i)) is amended—

(A) by striking "(G) or" and inserting "(G),", and

(B) adding at the end the following: "or with an eligible organization with a contract under section 1876 which meets the requirement of subparagraph (A)(ii), or".

(c) AUTOMATIC 1-MONTH REENROLLMENT FOR SHORT PERIODS OF INELIGIBILITY.—Section 1903(m)(2) of such Act is amended by adding at the end the following new subparagraph:

"(H) In the case of an individual who—

"(i) in a month is eligible for benefits under this title and enrolled with a health maintenance organization with a contract under this paragraph,

"(ii) in the next month (or in the next 2 months) is not eligible for such benefits, but

"(iii) in the succeeding month is again eligible for such benefits,

the State plan, subject to subparagraph (A)(vi), may enroll the individual for that succeeding month with the health maintenance organization described in clause (i) if the organization continues to have a contract under this paragraph with the State.".

(d) ELIMINATION OF PROVISIONAL QUALIFICATION FOR HMOs.—Section 1903(m) of such Act is amended—

(1) in paragraph (2)(A)(i), by striking "(or the State as authorized by paragraph (3))", and

(2) by striking paragraph (3).

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4463. EXTENSION AND EXPANSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

Section 507 of the Family Support Act of 1988 is amended—

(1) by striking "1991" and inserting "1996"; and

(2) by striking the period at the end and inserting the following: ", and shall amend such waiver to permit the State to expand such demonstration project to other counties if the amount of medical assistance provided under title XIX of such Act after such expansion will not exceed the amount of medical assistance provided under such title had the project not been expanded to other counties.".

SEC. 4464. TREATMENT OF DAYTON AREA HEALTH PLAN.

Section 9517(c)(2)(C) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by adding at the end the following: "In the case of the Dayton Area Health Plan, clause (ii) of section 1903(m)(2)(A) of the Social Security Act shall not apply during the 5-year period beginning on the date the Secretary of Health and Human Services has granted the plan a waiver under section 1915(b) of such Act of certain requirements of section 1902 of such Act.".

SEC. 4465. TREATMENT OF CERTAIN COUNTY-OPERATED HEALTH INSURING ORGANIZATIONS.

Section 9517(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(A) in paragraph (2)(A), by inserting "and in paragraph (3)" after "subparagraph (B)", and

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

"(3)(A) Subject to subparagraph (C), in the case of up to 3 health insuring organizations which are described in subparagraph (B), which first become operational on or after January 1, 1986, and which are designated by the Governor, and approved by the Legislature, of California, the amendments made by paragraph (1) shall not apply.

"(B) A health insuring organization described in this subparagraph is one that—

"(i) is operated directly by a public entity established by a county government in the State of California under a State enabling statute;

"(ii) enrolls all medicaid beneficiaries residing in the county in which it operates;

"(iii) meets the requirements for health maintenance organizations under the Knox-Keene Act (Cal. Health and Safety Code, section 1340 et seq.) and the Waxman-Duffy Act (Cal. Welfare and Institutions Code, section 14450 et seq.);

"(iv) assures a reasonable choice of providers, which includes providers that have historically served medicaid beneficiaries and which does not impose any restriction which substantially impairs access to covered services of adequate quality where medically necessary;

"(v) provides for a payment adjustment for a disproportionate share hospital (as defined under State law consistent with section 1923 of the Social Security Act) in a manner consistent with the requirements of such section; and

"(vi) provides for payment, in the case of childrens' hospital services provided to medicaid beneficiaries who are under 21 years of age, who are children with special health care needs under title V of the Social Security Act, and who are receiving care coordination services under such title, at rates determined by the California Medical Assistance Commission.

"(C) Subparagraph (A) shall not apply with respect to any period for which the Secretary of Health and Human Services determines that the number of medicaid beneficiaries enrolled with health insuring organizations described in subparagraph (B) exceeds 10 percent of the number of such beneficiaries in the State of California.

"(D) In this paragraph, the term 'medicaid beneficiary' means an individual who is entitled to medical assistance under the State plan under title XIX of the Social Security Act, other than a qualified medicare beneficiary who is only entitled to such assistance because of section 1902(a)(10)(E) of such title.".

Subpart D—Demonstration Projects and Home and Community-Based Waivers

SEC. 4471. MEDICAID LONG-TERM CARE INSURANCE DEMONSTRATION PROJECT.

(a) AUTHORIZATION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), upon application by any State may approve demonstration projects (each in this section referred to as a "project") under which covered long-term care beneficiaries (as defined in paragraph (3)(A)) who are 65 years of age or older and who have exhausted benefits under the qualified long-term care insurance policy are made eligible under the special rules specified in paragraph (2) to receive benefits with respect to long-term care services (as defined in paragraph (3)(B)) under the State medicaid plan. Expenditures with respect to such benefits shall be considered to be medical assistance for purposes of section 1903(a) of the Social Security Act.

(2) SPECIAL ELIGIBILITY PROVISIONS.—

(A) INITIAL ELIGIBILITY.—In determining the initial eligibility for medical assistance with respect to long-term care services under the State medicaid plan—

(i) the income of each covered long-term care beneficiary who is 65 years of age or older and who has exhausted benefits under the qualified long-term care insurance policy shall be disregarded, and

(ii) subject to subparagraph (D), the valuation of the assets of such beneficiary shall be reduced by the amount of protection provided under the long-term care insurance policy recognized under the project.

(B) POST-ELIGIBILITY.—The amount such a beneficiary is required to contribute toward the cost of long-term care services shall be the same as other individuals entitled to such services under the State plan, except that, subject to subparagraph (D), the valuation of the assets of the beneficiary shall be reduced by the amount of protection provided under the long-term care insurance policy recognized under the project.

(C) NONDISCRIMINATION.—Except as specified in this paragraph, a State medicaid plan may not discriminate, in the services covered or otherwise, against any individual based on whether or not the individual participates in a project under this section.

(D) MAXIMUM LEVEL OF ASSET PROTECTION.—

(i) IN GENERAL.—In no case shall the valuation of assets of a beneficiary be reduced by more than the maximum benefit level of the qualified long-term care insurance policy or the amount specified in clause (ii), whichever is less.

(ii) INDEXED LIMIT.—The amount specified in this clause is $75,000 increased by the same percentage as the percentage increase in the Consumer Price Index for All Urban Consumers (all items; U.S. city average) from December 1991 to December of the year preceding the year involved.

(3) DEFINITIONS.—In this section:

(A) The term "covered long-term care beneficiary" means an individual who at any time purchases benefits under a qualified long-term care insurance policy, and who voluntarily elects, at the time of purchase of such policy, to participate in the project.

(B) The term "long-term care services" means medical assistance for the following items and services, to the extent the State

medicaid plan otherwise makes medical assistance available to individuals entitled to benefits under the plan:

(i) Nursing facility services.

(ii) Home health care services (described in section 1905(a)(7) of the Social Security Act).

(iii) Private duty nursing services.

(iv) Case management services.

(v) Homemaker/home health aide services.

(vi) Personal care services.

(vii) Adult day health services.

(viii) Respite care.

(C) The term "State medicaid plan" means the plan of medical assistance of a State approved under title XIX of the Social Security Act.

(D) The term "qualified long-term care insurance policy" means a long-term care insurance policy that meets the requirements of subsection (e).

(b) TERMS OF PROJECTS.—

(1) IN GENERAL.—The Secretary may not approve a project of a State under this section unless the Secretary finds that the project meets the following requirements:

(A) The terms of the project are disclosed to each individual before the individual is enrolled under the project.

(B) Subject to subsection (e)(8)(C), any qualified long-term care insurance policy made available in conjunction with the project cannot condition, or otherwise limit, payment under the policy in any manner because the insured is eligible for, or payment may be made, for services under any public program (including the medicare or medicaid programs).

(2) LIMIT ON NUMBER OF LIVES INSURED UNDER ALL PROJECTS.—The Secretary shall approve projects under this section in a manner that assures that there are never more than 25,000 covered long-term care beneficiaries under all the projects. The Secretary, consistent with the previous sentence, may require that a project of a State must permit enrollment of a minimum number of covered long-term care beneficiaries.

(3) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary may waive the following requirements in title XIX of the Social Security Act with respect to covered long-term care beneficiaries who are 65 years of age or older and who have exhausted benefits under a qualified long-term care insurance policy to the extent required to carry out a project:

(A) Sections 1901, 1902(a)(1), 1902(a)(10) (other than subparagraph (B)), 1902(a)(17), and 1903(f), relating to required eligibility and benefits.

(B) Sections 1902(a)(14) and 1916(b), relating to premiums and cost-sharing.

(c) LIMITATION ON PAYMENTS.—Notwithstanding section 1903 of the Social Security Act, payment may not be made under such section for Federal financial participation for medical assistance with respect to long-term care services under a State medicaid plan for individuals 65 years of age or older during a year in which the project is in effect under this section in a State to the extent that such expenditures exceed the projected amount (determined by the Secretary at the time of approval of the project) that the State would have spent for such services for such individuals during such year if this section had not been in effect.

(d) STATE ASSURANCES.—The Secretary shall not approve an application of a State under this section unless the State provides assurance satisfactory to the Secretary that—

(1) aggregate expenditures under the plan for long-term care services for individuals 65 years of age or older in any fiscal year under the project will not exceed the aggregate expenditures under the plan for such services for such individuals in the fiscal year in the absence of such project;

(2) there will be no reduction or limitation of benefits to any individual eligible for medical assistance under the State medicaid plan as a result of operation of the project;

(3) the State will continue to make long-term care services available under the plan, at least to the extent such services are made available under the plan as in effect before the date of such approval and could continue to be provided consistent with law;

(4) the State will not permit the sale of any qualified long-term care insurance policy under the project unless the State has determined that the policy meets requirements specified in subsection (e) and meets standards at least as stringent as those set forth in the NAIC Long-Term Care Insurance Model Act (as of June 1989) and the NAIC regulations implementing the Act (to the extent not inconsistent with the requirements of subsection (e));

(5) in the sale of long-term care insurance policies not covered under the project, the State will require, at or before the time of sale of such a policy, that there be a disclosure of the fact that purchase of such a policy will not provide potential benefits under title XIX of the Social Security Act, unlike such policies covered under the project;

(6) the State will guarantee the payment of benefits under qualified long-term care insurance policies sold under the project;

(7) the percentage, of the income official poverty line, established by the State under section 1902(l)(2)(A)(i) of the Social Security Act is 185 percent;

(8) the State is in compliance with the requirements of section 1902(a)(28);

(9) nursing facilities under the medicaid plan establish and maintain identical policies and practices regarding admission for all individuals regardless of whether or not the individuals are participating in the project;

(10) the State has actuarial guidelines regarding, and actuaries capable of evaluating, actuarial submissions of companies seeking to offer qualified long-term care insurance policies under the project; and

(11) the State has provided for a program of counseling residents of the State with respect to the purchase of long-term care insurance policies and alternative financial options for protection of assets.

No payments shall be made under section 1903(a) of the Social Security Act with respect to a State's performance of the guarantee required under paragraph (6).

(e) REQUIREMENTS FOR QUALIFIED LONG-TERM CARE INSURANCE POLICIES.—The requirements specified in this subsection (respecting qualified long-term care insurance policies offered under the project in the State) are as follows:

(1) STANDARD FORMAT AND DISCLOSURE.—

(A) POLICY AND APPLICATION.—Each such long-term care insurance policy, and application for such a policy, shall be written in simple, easily understood English in a standard format (established by the State) providing standardized terms and disclosure.

(B) MARKETING MATERIAL.—Marketing materials used with respect to such a policy shall be written or otherwise stated in simple, easily understood English.

(C) REQUIRED DISCLOSURE.—No such long-term care insurance policy may be sold (or offered for sale) unless there is disclosed in writing, no later than the time of sale of the policy—

(i) the proportion of premiums collected (and interest and other revenues derived therefrom) which will be applied to payment of benefits, and

(ii) the potential benefits under title XIX of the Social Security Act associated under the project with purchase of such a policy.

(2) MINIMUM LOSS-RATIO.—Such a policy must guarantee over time, using generally accepted actuarial standards, that at least 70 percent of the amount of the premiums (and interest and other revenues derived therefrom) will be paid on benefits under the policy.

(3) STANDARD MINIMUM BENEFITS.—Each such long-term care insurance policy shall provide at least the following benefits, up to the maximum dollar level of benefits provided under (and specified on the face of) the plan under paragraph (4):

(A) NURSING FACILITY SERVICES.—Coverage of, and payment for, nursing facility services for individuals determined (in accordance with paragraph (5)) to require an institutional level of care.

(B) HOME AND COMMUNITY-BASED SERVICES.—Personal care services (including home health aide and homemaker services), home health services, and respite care in the individual's place of residence for individuals determined to be at risk of institutionalization without such services.

The policy may not impose any limits on the duration of the period of services under the policy, other than the maximum dollar level of benefits (which shall apply uniformly to all services). The payment levels established for services under the plan shall be adjusted at least annually to reflect the percentage increase in the Consumer Price Index for All Urban Consumers (all items; U.S. city average).

(4) SPECIFICATION OF MAXIMUM DOLLAR LEVEL OF BENEFITS.—Each such long-term care insurance policy shall specify a maximum dollar level of benefits. Such maximum dollar level of benefits shall be increased, in each year after the year following the year of its issuance, by the same percentage as the percentage increase in the Consumer Price Index for All Urban Consumers (all items; U.S. city average) from December of the year before the year the year of issuance to December of the year preceding the year involved.

(5) DETERMINATION OF BENEFIT ELIGIBILITY.—

(A) CASE MANAGEMENT REQUIRED.—Each long-term care insurance policy shall use a standard formula, set by the State and based on a uniform assessment instrument specified by the State, to determine the level of care appropriate for each case. Such formula must be applied by the State or a case-management agency which is independent of the issuer of the policy.

(B) NO HIGHER LEVEL OF CARE REQUIREMENT.—A long-term care insurance policy may not condition or limit eligibility for benefits—

(i) for noninstitutional benefits to the need for or receipt of institutional services,

(ii) for home care services to the need for or receipt of nursing care, or

(iii) for any benefits on the medical necessity for such benefits.

(C) APPEAL RIGHTS.—Each long-term care insurance policy shall provide for and specify procedures (meeting reasonable standards specified by the State) for the appeal of determinations of level of care made under subparagraph (A).

(6) LIMITATION BASED ON PRE-EXISTING CONDITION.—

(A) IN GENERAL.—Except as permitted under subparagraph (B), a long-term care insurance policy may not limit or delay an individual's eligibility for benefits based on a pre-existing condition.

(B) EXCEPTION.—A long-term care insurance policy may deny payments during the first 6 months of coverage for treatment respecting any condition that existed during the 6 months before the date of purchase of the policy.

(7) NO POST-CLAIMS CONDITIONING AND GUARANTEED RENEWABLE.—After a long-term care insurance policy has been issued, the issuer may not deny claims under the policy on any grounds other than fraud or a knowing misrepresentation in the application for the policy or deny renewal of the coverage other than on such grounds or the failure to make timely payment of premiums.

(8) MEDICAL UNDERWRITING, PREMIUMS, AND COST-SHARING.—

(A) NO MEDICAL UNDERWRITING.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), an individual may not be discriminated against in the offering, renewal, or benefits under such long-term care insurance policy based on the individual's medical condition.

(ii) TREATMENT OF INDIVIDUALS RECEIVING BENEFITS.—The issuer of a long-term care insurance policy may deny initial issuance of such a policy to an individual receiving long-term care services at the time of the application for issuance of the policy.

(iii) VARYING PREMIUMS BY AGE CLASSIFICATION.—Clause (i) shall not be construed as preventing the issuer of a long-term care insurance policy from varying the premiums based on the age classification of individuals at the time of issuance of the policy.

(B) LEVEL PREMIUMS.—Each such policy shall have periodic premiums that are the same for all individuals in the same age group who purchased such a policy when they were in the same age group. The premiums rates must be guaranteed for the duration of the policy and must be suspended during any period in which benefits are payable under the policy.

(C) NONDUPLICATION OF MEDICARE BENEFITS.—Each such policy shall provide that, to the extent not required under section 1862(b) of the Social Security Act, benefits are not payable under the policy for services for which payment may be made under title XVIII of such Act.

(D) REDUCED PAID-UP PROVISION.—Each long-term care insurance policy shall have a provision under which, if the policy lapses after 5 or more years of coverage, the policy will provide, without payment of any additional premiums, benefits equal to at least 30 percent of the maximum dollar level of benefits available at term, and, after subsequent periods of coverage, the policy will provide, without payment of any additional premium, benefits equal to at least an increased percentage (established by the Secretary) of the maximum dollar level of benefits available at term.

(E) ADDITIONAL CONSUMER PROTECTIONS.—Each long-term care policy meets such standards relating to compensation arrangements, advertising, marketing, and appropriateness of purchase which the Secretary finds are equal to, or more stringent than, the requirements specified in sections 12, 15, 16, and 17 of Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Act (as adopted by the National Association of Insurance Commissioners as of December 7, 1989).

(9) ACCESS TO INFORMATION.—The issuer of the long-term care policy will make available to the State and the Secretary (upon request) information respecting the utilization of benefits (and payments) under the policy, the health status of individuals purchasing such policies, and such other information as the Secretary may require, including information on lapse rates, rescissions, application denials, payment denials, and complaints received.

(f) PROHIBITED SALES PRACTICES.—

(1) DUTY OF GOOD FAITH AND FAIR DEALING.—Each individual who is selling or offering for sale a long-term care insurance policy under the demonstration project has a duty of good faith and fair dealing to the purchaser or potential purchaser of such a policy.

(2) SPECIFIC PRACTICES.—An individual who is selling or offering for sale such a long-term care insurance policy—

(A) may not complete the medical history portion of an application;

(B) may not knowingly sell such a policy to provide benefits to an individual who is eligible for benefits under a State plan approved under title XIX of the Social Security Act (other than only because of the operation of the demonstration project); and

(C) may not sell such a policy knowing that the policy provides coverage that duplicates coverage already provided and may not sell a long-term care insurance policy for the benefit of an individual unless the individual (or a representative of the individual) provides a written statement to the effect that the coverage does not duplicate other coverage in effect.

(3) CIVIL MONEY PENALTY.—Any person who sells a long-term care insurance policy under the demonstration project in violation of requirements imposed under subsection (e) or who violates paragraph (1) or (2) of this subsection is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(g) APPLICATION, DURATION, AND ELIGIBILITY.—

(1) An application to the Secretary from the State for approval of the project shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such application in writing or informs the State in writing with respect to any additional information which is needed in order to make a final determination with respect to the application. After the date the Secretary receives such additional information, the application shall be deemed granted unless the Secretary, within 90 days of such date, denies such application.

(2) Any termination of a project shall not affect covered long-term care beneficiaries who purchased qualified long-term care insurance policies before the termination date.

(h) ANNUAL STATE REPORTS.—The State shall annually (during the duration of such project) report to the Secretary on—

(1) the number of individuals enrolled in the demonstration project in such State;

(2) the number of enrollees actually receiving long-term care services under such demonstration project (whether through long-term care insurance or medical assistance under title XIX of the Social Security Act);

(3) the number of enrollees actually receiving long-term care in the form of medical assistance;

(4) the average income, age, and assets of each enrollee; and

(5) the number and characteristics of private insurers with policies approved by the State under the demonstration project.

(i) SECRETARY'S REPORTS.—The Secretary shall submit to Congress reports on projects under this section. The first such report shall be submitted in 1997 and subsequent reports shall be submitted each 6th year thereafter until 2021. Each such report shall summarize and analyze information reported by the State under subsection (h), and shall evaluate the cost effectiveness of the projects.

SEC. 4472. TIMELY PAYMENT UNDER WAIVERS OF FREEDOM OF CHOICE OF HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1915(b)(4) of the Social Security Act (42 U.S.C. 1396n(b)(4)) is amended by inserting before the period at the end the following: "and if providers under such restriction are paid on a timely basis in the same manner as health care practitioners must be paid under section 1902(a)(37)(A)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act.

SEC. 4473. HOME AND COMMUNITY-BASED SERVICES WAIVERS.

(a) CLARIFYING DEFINITION OF ROOM AND BOARD.—

(1) IN GENERAL.—Subsections (c)(1) and (d)(1) of section 1915 of the Social Security Act (42 U.S.C. 1396n) are each amended by adding at the end the following: "For purposes of this subsection, the term 'room and board' shall not include the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to services furnished on or after the date of the enactment of this Act.

(b) TREATMENT OF PERSONS WITH MENTAL RETARDATION OR A RELATED CONDITION IN A DECERTIFIED FACILITY.—

(1) IN GENERAL.—Section 1915(c)(7) of such Act (42 U.S.C. 1396n(c)(7)) is amended by adding at the end the following new subparagraph:

"(C) In making estimates under paragraph (2)(D) in the case of a waiver to the extent that it applies to individuals with mental retardation or a related condition who are resident in an intermediate care facility for the mentally retarded the participation of which under the State plan is terminated, the State may determine the average per capita expenditures that would have been made in a fiscal year for those individuals without regard to any such termination.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the enactment of the Omnibus Budget Reconciliation Act of 1981, but shall only apply to facilities the participation of which under a State plan under title XIX of the Social Security Act is terminated on or after the date of the enactment of this Act.

(c) SCOPE OF RESPITE CARE.—

(1) IN GENERAL.—Section 1915(c)(4) of such Act is amended by adding at the end the following:

"Except as provided under paragraph (2)(D), the Secretary may not restrict the number of hours or days of respite care in any period which a State may provide under a waiver under this subsection.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the enactment of the Omnibus Budget Reconciliation Act of 1981.

(d) PERMITTING ADJUSTMENT IN ESTIMATES TO TAKE INTO ACCOUNT PREADMISSION SCREENING REQUIREMENT.—In the case of a

waiver under section 1915(c) of the Social Security Act for individuals with mental retardation or a related condition in a State, the Secretary of Health and Human Services shall permit the State to adjust the estimate of average per capita expenditures submitted under paragraph (2)(D) of such section, with respect to such expenditures made on or after January 1, 1989, to take into account increases in expenditures for, or utilization of, intermediate care facilities for the mentally retarded resulting from implementation of section 1919(e)(7)(A) of such Act.

SEC. 4474. PROVISIONS RELATING TO FRAIL ELDERLY DEMONSTRATION PROJECT WAIVERS.

(a) EXPANSION OF WAIVERS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in paragraph (1), by striking "10" and inserting "15"; and

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

"(3) In the case of an organization receiving an initial waiver under this subsection on or after October 1, 1990, the Secretary (at the request of the organization) shall not require the organization to provide services under title XVIII of the Social Security Act on a capitated or other risk basis during the first 2 years of the waiver.".

(b) APPLICATION OF SPOUSAL IMPOVERISHMENT RULES.—(1) Section 1924(a) of the Social Security Act (42 U.S.C. 1396r-5(a)) is amended by adding at the end the following new paragraph:

"(5) APPLICATION TO INDIVIDUALS RECEIVING SERVICES FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS.—This section applies to individuals receiving services from any organization receiving a frail elderly demonstration project waiver under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986.".

(2) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) Section 1924 of the Social Security Act shall apply to any individual receiving services from an organization receiving a waiver under this subsection.".

Subpart E—Miscellaneous

SEC. 4481. MEDICAID STATE PLANS ASSURING THE IMPLEMENTATION OF A PATIENT'S RIGHT TO PARTICIPATE IN AND DIRECT HEALTH CARE DECISIONS AFFECTING THE PATIENT.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a(a)), as amended by sections 4401(a)(2) and 4423(a) of this title, is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (54),

(B) by striking the period at the end of paragraph (55) and inserting "; and", and

(C) by inserting after paragraph (55) the following new paragraph:

"(56) provide that each hospital, nursing facility, provider of home health care or personal care services, hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A)) receiving funds under the plan shall comply with the requirement of subsection (u).";and

(2) by adding, after the subsections added by sections 4441(a) and 4451(a)(2) of this title, at the end the following new subsection:

"(u)(1) For purposes of subsection (a)(56) and sections 1903(m)(1)(A) and 1919(c)(2)(E), the requirement of this subsection is that a provider or organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization—

"(A) to provide written information to each such individual concerning—

"(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

"(ii) the provider's or organization's written policies respecting the implementation of such rights;

"(B) to document in the individual's medical record whether or not the individual has executed an advance directive;

"(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

"(D) to ensure compliance with requirements of State law respecting advance directives; and

"(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

"(2) The written information described in paragraph (1)(A) shall be provided to an adult individual—

"(A) in the case of a hospital, at the time of the individual's admission as an inpatient,

"(B) in the case of a nursing facility, at the time of the individual's admission as a resident,

"(C) in the case of a provider of home health care or personal care services, in advance of the individual coming under the care of the provider,

"(D) in the case of a hospice program, at the time of initial receipt of hospice care by the individual from the program, and

"(E) in the case of a health maintenance organization, at the time of enrollment of the individual with the organization.

"(3) In this subsection, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1903(m)(1)(A) of such Act (42 U.S.C. 1396b(m)(1)(A)) is amended—

(A) by inserting "meets the requirement of section 1902(s)" after "which" the first place it appears, and

(B) by inserting "meets the requirement of section 1902(a) and" after "which" the second place it appears.

(2) Section 1919(c)(2) of such Act (42 U.S.C. 1396r(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) INFORMATION RESPECTING ADVANCE DIRECTIVES.—A nursing facility must comply with the requirement of section 1902(u) (relating to maintaining written policies and procedures respecting advance directives).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(d) STUDY TO ASSESS IMPLEMENTATION OF A PATIENT'S RIGHT TO PARTICIPATE IN AND DIRECT HEALTH CARE DECISIONS AFFECTING THE PATIENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall (subject to paragraph (2)) enter into an agreement with the Institute of Medicine of the National Academy of Sciences to conduct a study with respect to the context in which directed health care decisions (including advance directives) are made and carried out, including the incidence and processes of decisionmaking about life-sustaining treatment that occur with and without advance directives.

(2) ARRANGEMENTS FOR STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to submit an application to conduct the study described in paragraph (1). If the Institute submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study within 28 days of the date the application is received. If the Institute does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(3) REPORT.—The results of the study shall be reported to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate and the Secretary by not later than 4 years after the date of the enactment of this Act. Such report shall include such recommendations for legislation as may be appropriate to carry out further the purpose of this section.

(e) PUBLIC EDUCATION DEMONSTRATION PROJECT.—The Secretary of Health and Human Services, no later than 6 months after the date of the enactment of this Act, shall develop and implement a demonstration project in selected States to inform the public of the option to execute advance directives and of a patient's right to participate and direct health care decisions. The Secretary shall report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the results of the project and on whether such project should be extended.

SEC. 4482. IMPROVEMENT IN QUALITY OF PHYSICIAN SERVICES.

(a) USE OF UNIQUE PHYSICIAN IDENTIFIERS.—

(1) ESTABLISHMENT OF SYSTEM.—

(A) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding after the subsections added by sections 4441(a), 4451(a)(2), and 4481(a)(2) of this title, the following new subsection:

"(v) The Secretary shall establish a system, for implementation by not later than July 1, 1991, which provides for a unique identifier for each physician who furnishes services for which payment may be made under a State plan approved under this title.".

(B) DEADLINE AND CONSIDERATIONS.—The system established under the amendment made by subparagraph (A) may be the same as, or different from, the system established under section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(2) REQUIRING INCLUSION WITH CLAIMS.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)), as amended by sections 4401(a)(1)(B) and 4431(e)(17) of this title, is amended—

(A) by striking the period at the end of paragraph (11) and inserting "; or", and

(B) by inserting after paragraph (11) the following new paragraph:

"(12) with respect to any amount expended for physicians' services furnished on or after the first day of the first quarter begin-

ning more than 60 days after the date of establishment of the physician identifier system under section 1902(v), unless the claim for the services includes the unique physician identifier provided under such system.".

(b) MAINTENANCE OF ENCOUNTER DATA BY HEALTH MAINTENANCE ORGANIZATIONS.—

(1) IN GENERAL.—Section 1903(m)(2)(A) of such Act (42 U.S.C. 1396b(m)(2)(A)), as amended by sections 4461(a) and 4461(b) of this title, is amended—

(A) by striking "and" at the end of clause (ix),

(B) by striking the period at the end of clause (x) and inserting "; and", and

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

"(xi) such contract provides for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to contract years beginning after the date of the establishment of the system described in section 1902(v) of the Social Security Act.

(c) MAINTENANCE OF LIST OF PHYSICIANS BY STATES.—

(1) IN GENERAL.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by sections 4401(a)(2), 4423(a), and 4481(a) of this title, is amended—

(A) by striking "and" at the end of paragraph (55),

(B) by striking the period at the end of paragraph (56) and inserting "; and", and

(C) by inserting after paragraph (56) the following new paragraph:

"(57) maintain a list (updated not less often than monthly, and containing each physician's unique identifier provided under the system established under subsection (v)) of all physicians who are certified to participate under the State plan.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to medical assistance for calendar quarters beginning more than 60 days after the date of establishment of the physician identifier system under section 1902(v) of the Social Security Act.

(d) FOREIGN MEDICAL GRADUATE CERTIFICATION.—

(1) PASSAGE OF FMGEMS EXAMINATION IN ORDER TO OBTAIN IDENTIFIER.—The Secretary of Health and Human Service shall provide, in the identifier system established under section 1902(v) of the Social Security Act, that no foreign medical graduate (as defined in section 1886(h)(5)(D) of such Act) shall be issued an identifier under such system unless the individual—

(A) has passed the FMGEMS examination (as defined in section 1886(h)(5)(E) of such Act); or

(B) has previously received certification from, or has previously passed the examination of, the Educational Commission for Foreign Medical Graduates.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to issuance of an identifier applicable to services furnished on or after January 1, 1992.

(e) MINIMUM QUALIFICATIONS FOR BILLING FOR PHYSICIANS' SERVICES TO CHILDREN AND PREGNANT WOMEN.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)), as amended by sections 4401(a)(1)(B) and 4431(e)(17) of this title and subsection (a)(2) of this section, is further amended—

(1) by striking the period at the end of paragraph (13) and inserting "; or"; and

(2) by inserting after paragraph (13) the following new paragraph:

"(14) with respect to any amount expended for physicians' services furnished by a physician on or after January 1, 1992, to—

"(A) a child under 21 years of age, unless the physician—

"(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics,

"(ii) is employed by, or affiliated with, a Federally-qualified health center (as defined in section 1905(l)(2)(B)),

"(iii) holds admitting privileges at a hospital participating in a State plan approved under this title,

"(iv) is a member of the National Health Service Corps, or

"(v) documents a current, formal, consultation and referral arrangement with a pediatrician or family practitioner who has the certification described in clause (i) for purposes of specialized treatment and admission to a hospital; or

"(B) to a pregnant woman (or during the 60 day period beginning on the date of termination of the pregnancy) unless the physician—

"(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics,

"(ii) is employed by, or affiliated with, a Federally-qualified health center (as defined in section 1905(l)(2)(B)),

"(iii) holds admitting privileges at a hospital participating in a State plan approved under this title,

"(iv) is a member of the National Health Service Corps, or

"(v) documents a current, formal, consultation and referral arrangement with a obstetrician or family practitioner who has the certification described in clause (i) for purposes of specialized treatment and admission to a hospital.".

(f) REPORTING OF MISCONDUCT OR SUBSTANDARD CARE.—

(1) IN GENERAL.—Section 1921(a) of such Act (42 U.S.C. 1396r-2(a)) is amended—

(A) in paragraph (1), in the matter before subparagraph (A), by inserting "(or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners)" after "health care practitioners"; and

(B) in paragraph (1), by adding at the end the following new subparagraph:

"(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to State information reporting systems as of January 1, 1992, without regard to whether or not the Secretary of Health and Human Services has promulgated any regulations to carry out such amendments by such date.

SEC. 4483. CLARIFICATION OF AUTHORITY OF INSPECTOR GENERAL.

Section 1128A(j) of the Social Security Act (42 U.S.C. 1320a-7a(j)) is amended—

(1) by striking "(j)" and inserting "(j)(1)"; and

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

"(2) The Secretary may delegate authority granted under this section and under section 1128 to the Inspector General of the Department of Health and Human Services.".

SEC. 4184. NOTICE TO STATE MEDICAL BOARDS WHEN ADVERSE ACTIONS TAKEN.

(a) IN GENERAL.—Section 1902(a)(41) of the Social Security Act (42 U.S.C. 1396a(a)(41)) is amended by inserting "and, in the case of a physician and notwithstanding paragraph (7), the State medical licensing board" after "shall promptly notify the Secretary".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sanctions effected more than 60 days after the date of the enactment of this Act.

SEC. 4485. MISCELLANEOUS PROVISIONS.

(a) PSYCHIATRIC HOSPITALS.—

(1) CLARIFICATION OF COVERAGE OF INPATIENT PSYCHIATRIC HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1905(h)(1)(A) of the Social Security Act (42 U.S.C. 1396d(h)(1)(A)), as amended by section 2340(b) of the Deficit Reduction Act of 1984, is amended by inserting "or in another inpatient setting that the Secretary has specified in regulations" after "1861(f)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall be effective as if included in the enactment of the Deficit Reduction Act of 1984.

(2) INTERMEDIATE SANCTIONS FOR PSYCHIATRIC HOSPITALS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding after the subsections added by sections 4441(a), 4451(a)(2), 4481(a)(2) and 4482(a)(1), the following new subsection:

"(w)(1) In addition to any other authority under State law, where a State determines that a psychiatric hospital which is certified for participation under its plan no longer meets the requirements for a psychiatric hospital (referred to in section 1905(h)) and further finds that the hospital's deficiencies—

"(A) immediately jeopardize the health and safety of its patients, the State shall terminate the hospital's participation under the State plan; or

"(B) do not immediately jeopardize the health and safety of its patients, the State may terminate the hospital's participation under the State plan, or provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the effective date of the finding, or both.

"(2) Except as provided in paragraph (3), if a psychiatric hospital described in paragraph (1)(B) has not complied with the requirements for a psychiatric hospital under this title—

"(A) within 3 months after the date the hospital is found to be out of compliance with such requirements, the State shall provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the end of such 3-month period, or

"(B) within 6 months after the date the hospital is found to be out of compliance with such requirements, no Federal financial participation shall be provided under section 1903(a) with respect to further services provided in the hospital until the State finds that the hospital is in compliance with the requirements of this title.

"(3) The Secretary may continue payments, over a period of not longer than 6 months from the date the hospital is found to be out of compliance with such requirements, if—

"(A) the State finds that it is more appropriate to take alternative action to assure compliance of the hospital with the requirements than to terminate the certification of the hospital,

"(B) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(C) the State agrees to repay to the Federal Government payments received under this paragraph if the corrective action is not taken in accordance with the approved plan and timetable.".

(b) STATE UTILIZATION REVIEW SYSTEMS.—Section 9432 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "IN GENERAL.—",

(B) by striking ", during the period" and all that follows through "Congress,", and

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

"(2) The Secretary may not, during the period beginning on the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 and ending on the date that is 180 days after the date on which the report required by subsection (d) is submitted to the Congress, publish final or interim final regulations requiring a State plan approved under title XIX of the Social Security Act to include a program for ambulatory surgery, preadmission testing, or same-day surgery.";

(2) in subsection (b)(4), by inserting "and subsection (d)" after "In this subsection"; and

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

"(d) REPORT.—The Secretary shall report to Congress, by not later than January 1, 1993, for each State in a representative sample of States—

"(1) an analysis of the procedures for which programs for ambulatory surgery, preadmission testing, and same-day surgery are appropriate for patients who are covered under the State medicaid plan, and

"(2) the effects of such programs on access of such patients to necessary care, quality of care, and costs of care.

In selecting such a sample of States, the Secretary shall include some States with medicaid plans that include such programs.".

(c) ADDITIONAL MISCELLANEOUS PROVISIONS.—

(1) Effective July 1, 1990—

(A) section 1902(a)(10)(C)(iv) of the Social Security Act is amended by striking "through (20)" and inserting "through (21)", and

(B) section 1902(j) of such Act is amended by striking "through (21)" and inserting "through (22)".

(2) Effective as if included in subtitle D of title VI of the Omnibus Budget Reconciliation Act of 1989, section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j) is amended by adding at the end the following: "This paragraph does not authorize the withholding of information from either House of Congress or from, to the extent of matter within its jurisdiction, any committee or subcommittee of such committee or any joint committee of Congress or any subcommittee of such joint committee.".

(3) Section 505(b) of the Social Security Act (42 U.S.C. 705(b)) is amended in the matter preceding paragraph (1) by striking "requirement" and inserting "requirements".

Subtitle C—Energy and Miscellaneous User Fees

PART 1—ENERGY

SEC. 4501. SOLAR, WIND, WASTE, AND GEOTHERMAL POWER PRODUCTION INCENTIVES.

(a) AMENDMENTS TO PURPA.—Section 210 of the Public Utility Regulatory Policies Act of 1978 is amended as follows:

(1) In subsection (a), strike out ", and to encourage geothermal small power production facilities of not more than 80 megawatts capacity,".

(2) In subsection (e)(2), insert "(other than a qualifying small power production facility which is a solar, wind, waste, or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)" after "facility" where it first appears, and strike out ", or 80 megawatts for a qualifying small power production facility using geothermal energy as its primary energy source,".

(b) AMENDMENT OF FEDERAL POWER ACT.—Section 3(17) of the Federal Power Act is amended as follows:

(1) In subparagraph (A), insert "a facility which is a solar, wind, waste, or geothermal facility, or" after " 'small power production facility' means".

(2) Insert at the end thereof the following new subparagraph—

"(E) 'solar, wind, waste or geothermal facility' means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste, or geothermal resources;".

(c) REGULATIONS.—Unless the Federal Energy Regulatory Commission otherwise specifies, by rule, after the enactment of this Act, any solar, wind, waste, or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act as amended by this Act), which is a qualifying small power production facility (as defined in subparagraph (C) of section 3(17) of the Federal Power Act as amended by this Act)—

(1) shall be considered a qualifying small power production facility for purposes of part 292 of title 18, Code of Federal Regulations, notwithstanding any size limitations contained in such part, and

(2) shall not be subject to the size limitation contained in section 292.601(b) of such part.

SEC. 4502. NRC USER FEES AND ANNUAL CHARGES.

(a) ANNUAL ASSESSMENT.—

(1) AMOUNT.—The Nuclear Regulatory Commission (hereafter in this section referred to as the "Commission") shall annually assess and collect such fees and charges as are described in subsections (b) and (c) in an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such assessment is made less any amount appropriated to the Commission from the Nuclear Waste Fund in such fiscal year.

(2) FIRST ASSESSMENT.—The first such assessment shall be made not later than September 30, 1991, and shall be based on the budget authority of the Commission for fiscal year 1991.

(b) FEES FOR SERVICE OR THING OF VALUE.—Pursuant to section 9701 of title 31, United States Code, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value.

(c) ANNUAL CHARGES.—

(1) PERSONS SUBJECT TO CHARGE.—Any person who holds a license issued under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) that authorizes such person to operate a utilization facility with a rated thermal capacity in excess of 50,000,000 watts shall pay, in addition to the fees set forth in subsection (b), an annual charge.

(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charge collected from all persons described in paragraph (1) shall equal an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) in such fiscal year.

(3) AMOUNT PER LICENSEE.—The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among the licensees described in paragraph (1). The charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees described in paragraph (1).

(d) DEFINITION.—As used in this section, "Nuclear Waste Fund" means the fund established pursuant to section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).

(e) REPEAL.—Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by striking subtitle G. This repeal shall become effective upon promulgation of the Nuclear Regulatory Commission's final rule implementing this section.

PART 2—RAILROAD USER FEES

SEC. 4511. AMENDMENTS TO FEDERAL RAILROAD SAFETY ACT OF 1970.

(a) USER FEES.—The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"SEC. 216. USER FEES.

"(a)(1) The Secretary shall establish a schedule of fees to be assessed equitably to railroads, in reasonable relationship to an appropriate combination of criteria such as revenue ton-miles, track miles, passenger miles, or other relevant factors, but shall not be based on the proportion of industry revenues attributable to a railroad or class of railroads.

"(2) The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

"(3) Fees established under this section shall be assessed to railroads subject to this Act and shall cover the costs of administering this Act, other than activities described in section 202(a)(2).

"(b) The Secretary shall assess and collect fees described in subsection (a) with respect to each fiscal year before the end of such fiscal year.

"(c) All fees collected under subsection (b) shall be deposited into the General Fund of the United States Treasury as offsetting receipts and shall be used, to the extent provided in advance in appropriations Acts, only to carry out activities under this Act.

"(d) Fees established under subsection (a) shall be assessed in an amount sufficient to cover activities described in subsection (c) beginning on March 1, 1991, but at no time shall the aggregate of fees received for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees.

"(e)(1) Within 90 days after the end of each fiscal year in which fees are collected pursuant to this section, the Secretary shall report to the Congress—

"(A) the amount of fees collected during that fiscal year;

"(B) the impact of such fee collections on the financial health of the railroad industry and its competitive position relative to each competing mode of transportation; and

"(C) the total cost of Federal safety activities for each such other mode of transportation, including the portion of that total cost, if any, defrayed by Federal user fees.

"(2) With respect to any fiscal year for which the Secretary's report submitted under paragraph (1) finds—

"(A) any impact of fees collected under this section either on the financial health of the railroad industry, or on its competitive position relative to competing modes of transportation; or

"(B) any significant difference in the burden of Federal user fees borne by the

railroad industry and those applicable to competing modes of transportation,

the Secretary shall, within 90 days after submission of such report, prepare and submit to the Congress specific recommendations for legislation to correct any such impact or difference.

"(f) This section shall expire on September 30, 1995.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 214(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this Act not to exceed $46,884,000 for fiscal year 1991.".

PART 3—TRAVEL AND TOURISM USER FEES

SEC. 4521. UNITED STATES TRAVEL AND TOURISM USER FEE.

(a) IN GENERAL.—Sections 304 and 305 of the International Travel Act of 1961 (22 U.S.C. 2126-2127) are redesignated as sections 306 and 307, respectively, and the following is inserted after section 303:

"SEC. 304. (a) To the extent not inconsistent with international treaties or agreements entered into by the United States, the Secretary shall charge a United States Travel and Tourism Administration user fee, in an amount determined under subsection (b), to every alien described in section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) arriving at any port within the United States aboard any commercial aircraft or cruise ship from any place outside the United States.

"(b)(1) During the period from April 1, 1991, through March 30, 1992, the fee described in subsection (a) shall be $1.

"(2) No later than December 31 of each calendar year commencing in 1991, the Secretary shall determine and publish the amount of the fee described in subsection (a) for the 12-month period commencing on April 1 of the succeeding calendar year, as follows:

"(A) The Secretary (in consultation with the Attorney General and the Secretary of State) shall estimate the number of aliens described in section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) expected to enter the United States during such succeeding calendar year aboard a commercial aircraft or cruise ship (other than aliens entering from a country with which the United States has entered into an international treaty or agreement barring the fee described in subsection (a)), based upon the number of such aliens who entered the United States during the previous calendar year (as reported or estimated by the Attorney General) and such other available information as the Secretary deems reliable.

"(B) The Secretary shall divide the amount appropriated to the United States Travel and Tourism Administration for the fiscal year during which such determination is made by the number of aliens described in subparagraph (A) expected by the Secretary to enter the United States during the calendar year described in such subparagraph, and shall round off the result (up or down) to the nearest quarter-dollar.

"(C) The Secretary shall publish in the Federal Register the estimate required by subparagraph (A), together with a description of the information supporting such estimate, and the amount of the fee determined under subparagraph (B) which shall be applicable during the 12-month period commencing on April 1 of the succeeding calendar year.

"(3) Neither the estimate of the Secretary under paragraph (2)(A) nor the amount determined by the Secretary under paragraph (2)(B) shall be subject to judicial review.

"(c) The fee charged to an alien under subsection (a) shall be collected on behalf of the Secretary by the commercial airline or cruise ship line on which such alien arrived in the United States. No later than 31 days after the close of the calendar quarter in which such alien arrived in the United States, the commercial airline or cruise ship line shall remit the fee collected under this subsection, in United States dollars, to the Secretary of the Treasury for deposit, as offsetting receipts, in the General Fund of the United States Treasury.

"(d) Subsections (a) through (c) shall take effect on April 1, 1991.".

(b) CIVIL PENALTIES AND ENFORCEMENT.—The International Travel Act of 1961 is amended by inserting after section 304 (as added by section 4505) the following:

"SEC. 305. (a) Any commercial airline or commercial cruise ship line which is found by the Secretary or the Secretary's designee, after notice and an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, to have failed to pay to the Secretary of the Treasury, by the due date, the fee charged by the Secretary under section 304(a), may be ordered by the Secretary or the Secretary's designee to pay any fee amount outstanding plus interest on any late payment and, in addition, to pay a civil penalty not to exceed $5,000 for each day payment to the Secretary of the Treasury is not made or was made late. The amount of such civil penalty shall be assessed by the Secretary or the Secretary's designee by written notice. In determining the amount of such penalty, the Secretary or the Secretary's designee shall take into account the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and such other matters as justice may require. Each day a payment to the Secretary of the Treasury required by this Act is late shall constitute a separate violation of this Act.

"(b) If any commercial airline or cruise ship line fails to pay as ordered by the Secretary or the Secretary's designee, the Attorney General may, upon request of the Secretary, bring a civil action in any appropriate United States district court for the recovery of the amount ordered to be paid.

"(c) Before requesting the Attorney General to bring a civil action, the Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under subsection (a).

"(d) For the purpose of conducting any hearing under subsection (a), the Secretary or the Secretary's designee may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the United States district court for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or the Secretary's designee or to appear and produce papers, books, and documents before the Secretary or the Secretary's designee, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.".

PART 4—EPA USER FEES

SEC. 4531. RADON TESTING FEES.

For provisions of law providing for the charging by the Environmental Protection Agency of fees relating to radon testing fees, see section 305(e)(2) of the Toxic Substances Control Act.

SEC. 4532. MOTOR VEHICLE COMPLIANCE PROGRAM FEES.

For provisions providing for the charging by the Environmental Protection Agency of motor vehicle compliance program fees, see section 217 of H.R. 3030 ("Clean Air Act Amendments of 1990", As Passed the House of Representatives (101st Congress).

TITLE V—COMMITTEE ON INTERIOR AND INSULAR AFFAIRS.

Subtitle A—Nuclear Regulatory Commission User Fees

SEC. 5101. USER FEES AND ANNUAL CHARGES.

(a) AMENDMENT TO ATOMIC ENERGY ACT.—Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by adding at the end the following new section:

"SEC. 292. USER FEES AND ANNUAL CHARGES.

"(a) ANNUAL ASSESSMENT.—

"(1) AMOUNT.—The Nuclear Regulatory Commission (hereafter in this section referred to as the 'Commission') shall annually assess and collect such fees and charges as are described in subsections (b) and (c) in an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such assessment is made less any amount appropriated to the Commission from the Nuclear Waste Fund in such fiscal year.

"(2) FIRST ASSESSMENT.—The first such assessment shall be made not later than September 30, 1991, and shall be based on the budget authority of the Commission for fiscal year 1991.

"(b) FEES FOR SERVICE OR THING OF VALUE.—Pursuant to section 9701 of title 31, United States Code, any person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value.

"(c) ANNUAL CHARGES.—

"(1) PERSONS SUBJECT TO CHARGE.—Any person who holds a license issued under section 103 or 104 b. that authorizes such person to operate a utilization facility with a rated thermal capacity in excess of 50,000,000 watts shall pay, in addition to the fees set forth in subsection (b), an annual charge.

"(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charge collected from all persons described in paragraph (1) shall equal an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) in such fiscal year.

"(3) AMOUNT PER LICENSEE.—The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among the licensees described in paragraph (1). The charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees described in paragraph (1).

"(d) DEFINITION.—As used in this section, 'Nuclear Waste Fund' means the fund established pursuant to section 302 (c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222 (c)).".

(b) REPEAL.—Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by striking subtitle G. This repeal shall become effective upon promulgation of the Nuclear Regulatory Commission's final rule implementing section 292 of the Atomic Energy Act of 1954.

(c) TABLE OF CONTENTS.—The table of contents of the Atomic Energy Act of 1954 is amended by adding after the item relating to section 291 the following new item:

"Sec. 292. User fees and annual charges.".

Subtitle B—Tongass Timber Reform

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Tongass Timber Reform Act".

CHAPTER 1—ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AMENDMENTS

SEC. 5211. TO REQUIRE ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT AND RESOURCE CONSERVATION ON THE TONGASS NATIONAL FOREST.

Section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)) is repealed effective October 1, 1990.

SEC. 5212. IDENTIFICATION OF LANDS UNSUITABLE FOR TIMBER PRODUCTION.

Section 705(d) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(d)) is hereby repealed.

SEC. 5213. FUTURE REPORTS ON THE TONGASS NATIONAL FOREST.

(a) MONITORING.—Section 706(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539e(a)) is amended—

(1) by striking "the Committee on Interior and Insular Affairs" and inserting "the Committee on Agriculture and the Committee on Interior and Insular Affairs"; and

(2) by striking the second sentence and inserting the following new sentence: "This report shall include a complete analysis of the losses or gains sustained by the United States Government with respect to long-term, short-term and total sales of timber from the Tongass National Forest using information from the statement on revenues and expenses of the Timber Sale Program Information Reporting System and shall display total costs, unit costs (per thousand board feet of timber sold or released) and associated revenues, for the current and previous two years of operations.".

(b) STATUS.—Section 706(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539e(b)) is amended as follows:

(1) Strike out "and (4)" and insert in lieu thereof "(4)".

(2) Strike the period at the end of the section and insert ", (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats, and (6) the steps taken by the Secretary of Agriculture under section 5241(c) of the Tongass Timber Reform Act.".

(c) CONSULTATION.—Section 706(c) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539e(c)) is amended by striking out "and the Alaska Land Use Council" and inserting in lieu thereof "the southeast Alaska commercial fishing industry, and the Alaska Land Use Council".

SEC. 5214. ADMINISTRATION.

Section 705 (16 U.S.C. 539d) of the Alaska National Interest Lands Conservation Act is amended by adding at the end thereof the following:

"(e) FISHERIES PROTECTION.—In order to assure protection of riparian habitat, the Secretary of Agriculture shall maintain a buffer zone of a minimum of 100 feet in width within which logging shall be prohibited on each side of all anadromous fish streams in the Tongass National Forest, and their tributaries, except those tributaries with no resident fish populations which are intermittent in flow, or have flow of inadequate magnitude to directly influence downstream fish habitat.

"(f) TENAKEE SPRINGS ROAD PROHIBITION.—A vehicular access road connecting the Indian River and Game Creek roads may not be constructed, and the Secretary of Agriculture shall not engage in any further efforts to connect the city of Tenakee Springs with the logging road system on Chichagof Island.".

CHAPTER 2—TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA

SEC. 5221. TERMINATION.

Title V of the Alaska National Interest Lands Conservation Act is amended by adding at the end thereof the following new section:

"SEC. 508. TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA.

"(a) FINDING.—The Congress hereby finds and declares that it is in the national interest to assure that valuable public resources in the Tongass National Forest are protected and wisely managed. Termination of the long-term timber sale contracts is necessary because the contracts prevent proper Forest Service management, allow the holders to concentrate logging in the rare, high-volume old growth forest most valuable for fish and wildlife habitat, threaten natural resource dependent communities and industries, and undermine competition within the southeast Alaska timber industry.

"(b) TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS.—Not later than 90 days after the date of enactment of this section, the Secretary of Agriculture shall terminate the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and Alaska Pulp Corporation, and between the United States and Ketchikan Pulp Company, respectively.

"(c) SUBSTITUTION OF SHORT-TERM TIMBER SALES.—The Secretary of Agriculture is authorized to make available sufficient volumes of timber to meet actual market demand as determined pursuant to planning process specified in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 and other applicable laws. Timber sales shall be offered for competitive bid and administered consistent with standard, short-term timber sales on other national forests.".

CHAPTER 3—WILDERNESS

SEC. 5231. ADDITIONAL WILDERNESS AREAS.

(a) DESIGNATION.—Section 703 of the Alaska National Interest Lands Conservation Act is amended by adding at the end thereof the following:

"(c) DESIGNATION OF ADDITIONAL WILDERNESS ON THE TONGASS NATIONAL FOREST.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands within the Tongass National Forest in the State of Alaska are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

"(1) ANAN CREEK WILDERNESS.—Certain lands which comprise approximately 30,415 acres, as generally depicted on a map entitled 'Anan Creek Wilderness—Proposed' and dated May 1989, which shall be known as the Anan Creek Wilderness.

"(2) BERNERS BAY WILDERNESS.—Certain lands which comprise approximately 46,135 acres, as generally depicted on a map entitled 'Berners Bay Wilderness—Proposed' and dated May 1989, which shall be known as the Berners Bay Wilderness.

"(3) CALDER-HOLBROOK WILDERNESS.—Certain lands which comprise approximately 68,693 acres, as generally depicted on a map entitled 'Calder-Holbrook Wilderness—Proposed' and dated May 1989, which shall be known as the Calder-Holbrook Wilderness.

"(4) CHICHAGOF WILDERNESS.—Certain lands which comprise approximately 347,733 acres, as generally depicted on a map entitled 'Chichagof Wilderness—Proposed' and dated May 1989, which shall be known as the Chichagof Wilderness.

"(5) CHUCK RIVER WILDERNESS.—Certain lands which comprise approximately 124,539 acres, as generally depicted on a map entitled 'Chuck River Wilderness—Proposed' and dated May 1989, which shall be known as the Chuck River Wilderness.

"(6) KADASHAN WILDERNESS.—Certain lands which comprise approximately 34,044 acres, as generally depicted on a map entitled 'Kadashan Wilderness—Proposed' and dated May 1989, which shall be known as the Kadashan Wilderness.

"(7) KARTA RIVER WILDERNESS.—Certain lands which comprise approximately 39,886 acres, as generally depicted on a map entitled 'Karta River Wilderness—Proposed' and dated May 1989, which shall be known as the Karta River Wilderness.

"(8) KEGAN LAKE WILDERNESS.—Certain lands which comprise approximately 24,655 acres, as generally depicted on a map entitled 'Kegan Lake Wilderness—Proposed' and dated May 1989, which shall be known as the Kegan Lake Wilderness.

"(9) NAHA RIVER WILDERNESS.—Certain lands which comprise approximately 31,794 acres, as generally depicted on a map entitled 'Naha River Wilderness—Proposed' and dated May 1989, which shall be known as the Naha River Wilderness.

"(10) NUTKWA WILDERNESS.—Certain lands which comprise approximately 52,654 acres, as generally depicted on a map entitled 'Nutkwa Wilderness—Proposed' and dated May 1989, which shall be known as the Nutkwa Wilderness.

"(11) OUTSIDE ISLANDS WILDERNESS.—Certain lands which comprise approximately 98,572 acres, as generally depicted on a map entitled 'Outside Islands Wilderness—Proposed' and dated May 1989, which shall be known as the Outside Islands Wilderness.

"(12) PLEASANT-LEMESURIER-INIAN ISLANDS WILDERNESS.—Certain lands which comprise approximately 23,140 acres, as generally depicted on a map entitled Pleasant-Lemesurier-Inian Islands Wilderness—Proposed' and dated May 1989, which shall be known as the Pleasant-Lemesurier-Inian Islands Wilderness.

"(13) POINT ADOLPHUS-MUD BAY WILDERNESS.—Certain lands which comprise approximately 73,346 acres, as generally depicted on a map entitled 'Point Adolphus-Mud Bay Wilderness—Proposed' and dated May 1989, which shall be known as the Point Adolphus-Mud Bay Wilderness.

"(14) PORT HOUGHTON-SANBORN CANAL WILDERNESS.—Certain lands which comprise approximately 58,915 acres, as generally depicted on a map entitled 'Port Houghton-Sanborn Canal Wilderness—Proposed' and dated May 1989, which shall be known as the Port Houghton-Sanborn Canal Wilderness.

"(15) ROCKY PASS WILDERNESS.—Certain lands which comprise approximately 75,734 acres, as generally depicted on a map entitled 'Rocky Pass Wilderness—Proposed' and dated May 1989, which shall be known as the Rocky Pass Wilderness.

"(16) SARKAR LAKES WILDERNESS.—Certain lands which comprise approximately 25,650 acres, as generally depicted on a map entitled 'Sarkar Lakes Wilderness—Proposed'

and dated May 1989, which shall be known as the Sarkar Lakes Wilderness.

"(17) SOUTH ETOLIN ISLAND WILDERNESS.—Certain lands which comprise approximately 83,642 acres, as generally depicted on a map entitled 'South Etolin Island Wilderness—Proposed' and dated May 1989, which shall be known as the South Etolin Island Wilderness.

"(18) SOUTH KUIU WILDERNESS.—Certain lands which comprise approximately 191,532 acres, as generally depicted on a map entitled 'South Kuiu Wilderness—Proposed' and dated May 1989, which shall be known as the South Kuiu Wilderness.

"(19) SULLIVAN ISLAND WILDERNESS.—Certain lands which comprise approximately 4,032 acres, as generally depicted on a map entitled 'Sullivan Island Wilderness—Proposed' and dated May 1989, which shall be known as the Sullivan Island Wilderness.

"(20) TRAP BAY WILDERNESS.—Certain lands which comprise approximately 6,667 acres, as generally depicted on a map entitled 'Trap Bay Wilderness—Proposed' and dated May 1989, which shall be known as the Trap Bay Wilderness.

"(21) WEST DUNCAN CANAL WILDERNESS.—Certain lands which comprise approximately 134,627 acres, as generally depicted on a map entitled 'West Duncan Canal Wilderness—Proposed' and dated May 1989, which shall be known as the West Duncan Canal Wilderness.

"(22) YAKUTAT FORELANDS WILDERNESS.—Certain lands which comprise approximately 220,268 acres, as generally depicted on a map entitled 'Yakutat Forelands Wilderness—Proposed' and dated May 1989, which shall be known as the Yakutat Forelands Wilderness.

"(23) YOUNG LAKE WILDERNESS ADDITION TO ADMIRALTY ISLAND NATIONAL MONUMENT.—Certain lands which comprise approximately 18,702 acres, as generally depicted on a map entitled 'Young Lake Wilderness—Proposed' and dated May 1989, which shall be managed as an addition to the Admiralty Island National Monument.

"(d) APPLICATION OF SECTION 1315(e).—Section 1315(e) of this Act (16 U.S.C. 3203(e)) shall not apply to the wilderness designated by subsection (c).".

(b) ADMINISTRATION.—Section 707 of the Alaska National Interest Lands Conservation Act is amended by adding the following at the end thereof: "Subject to valid existing rights, the wilderness areas designated in amendments made to section 703(c) of this Act by the Tongass Timber Reform Act shall be administered by the Secretary of Agriculture in accordance with this section, except that, in the case of such areas, any reference in the provisions of the Wilderness Act to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of the Tongass Timber Reform Act.".

CHAPTER 4—IMPROVEMENT OF THE MANAGEMENT OF THE TONGASS NATIONAL FOREST

SEC. 5241. MANAGEMENT OF THE TONGASS NATIONAL FOREST.

(a) FINDINGS.—The Congress finds that—

(1) the commercial fishing, recreation, timber, and tourism industries each make a substantial contribution to the economy of southeast Alaska and their ability to contribute in the future depends upon balanced planning and management of the Tongass National Forest; and

(2) the Secretary of Agriculture should plan and manage the Tongass National Forest in a manner that adequately protects and enhances fish, wildlife, and recreation resources, as well as timber, and should act in the long-term best interests of all natural resources dependent industries and subsistence communities in southeast Alaska.

(b) PURPOSES.—The purposes of this section are to require the Secretary of Agriculture to—

(1) assess the extent to which planning and management of the Tongass National Forest prior to the enactment of this Act has differed from planning for, and management of, other national forests; and

(2) change, in conformance with laws applicable to the National Forest System, planning and management priorities regarding the Tongass National Forest so as to assure that greater emphasis is given to the long-term best interests of the commercial fishing, recreation, and tourism industries, subsistence communities in southeast Alaska, and the national interest in the fish and wildlife and other natural resources of the Tongass National Forest.

(c) DIRECTIVE.—The Secretary of Agriculture is authorized and directed to take such steps as are necessary in current management practices and in revisions of the Tongass land management plan to achieve the purposes described in subsection (b).

(d) OLD-GROWTH FOREST MANAGEMENT.—In developing the land management plan for the Tongass National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, the Secretary shall—

(1) provide for sustained production of old-growth forest resources within the Tongass National Forest; and

(2) upon completion of the draft of such plan, which shall be completed in any event not later than one year after the date of enactment of this Act, report to the Committees on Agriculture and on Interior and Insular Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on provisions incorporated into such plan to meet the objective set forth in paragraph (1). The report shall include—

(A) the definition of the term "old-growth forest" used for purposes of such plan;

(B) the quantity and distribution of old-growth forest in the Tongass National Forest;

(C) the management objectives and guidelines incorporated into such plan to provide for sustained production of old-growth forest resources;

(D) the criteria used to determine how to integrate old-growth forest management objectives into the plan; and

(E) the relationship between old-growth forest management objectives and other resource management goals affecting timber, fish and wildlife, water quality, recreation, subsistence uses, and aesthetics.

Subtitle C—Oil Shale Claims Reform

SEC. 5301. FINDINGS.

The Congress finds that:

(1) Certain oil shale mining claims were located pursuant to the General Mining Act of May 10, 1872, before enactment of the Mineral Leasing Act of February 25, 1920, which provides for the leasing of that mineral.

(2) Section 37 of the Mineral Leasing Act permitted oil shale claims that were "maintained in compliance with the laws under which initiated" to be perfected under such laws.

(3) The holders of those oil shale claims that have not been patented have been afforded ample opportunity to apply for patents over the last 70 years but have failed to take such action.

(4) Both the Mining Act of 1872 and the Mineral Leasing Act were intended to accomplish the development of the mineral resources of the Nation, including oil shale.

(5) Almost none of the oil shale claims have been developed for their oil shale in the intervening 70 years.

(6) The continued existence of these oil shale claims restricts the lands from the development of other minerals which may exist on the claimed lands.

(7) The continued existence of these oil shale claims interferes with the effective management of Federal lands.

(8) Issuing patents at this time for claims for which a right to patent has not vested would likely result in nonmineral development contrary to the intent of the Mining Act of 1872 and the Mineral Leasing Act.

(9) The lands embraced in an unpatented claim remain subject to the disposing power of the Congress until all conditions imposed by law for issuance of a patent are fully satisfied.

(10) Either the conversion of valid oil shale claims to leases or requiring diligent work toward production on such claims, together with the cancellation of invalid claims, would promote mineral development including for oil shale.

(11) It is in the public interest for these claims to be brought to some final resolution so that Federal lands affected may be properly managed for their mineral and other values in accordance with the laws and policies of the United States.

SEC. 5302. AMENDMENT TO THE MINERAL LEASING ACT.

Section 37 of the Mineral Leasing Act (30 U.S.C. 193) is amended by inserting "(a)" before the first sentence and by adding the following new subsections at the end thereof:

"(b)(1) The Secretary of the Interior shall undertake an expedited program to determine the validity of all unpatented oil shale claims referred to in subsection (a). The expedited program shall include an examination of all unpatented oil shale claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void and cancel it.

"(2) Not later than 30 days after the enactment of this subsection the Secretary shall publish proposed regulations in the Federal Register containing standards and criteria for determining the validity of all unpatented oil shale claims referred to in subsection (a). Final regulations shall be promulgated within 180 days after the date such proposed regulations are published. The Secretary shall make a determination with respect to the validity of each such claim within 2 years after the promulgation of such final regulations. In making such determinations the Secretary shall give priority to those claims which meet the requirements of paragraphs (1) and (2) of subsection (c) and subsection (f).

"(c) Except as provided in subsection (f), after January 24, 1989, no patent shall be issued by the United States for any oil shale claim referred to in subsection (a) unless the Secretary of the Interior determines that, for the claim concerned—

"(1) a patent application was filed with the Secretary on or before January 24, 1989, and

"(2) all requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) were fully complied with by that date.

"(d)(1) The holder of each oil shale claim for which no patent may be issued by reason of subsection (c) shall make an election under paragraph (2) or paragraph (3) of this subsection. Not later than 30 days

after the enactment of this subsection, the Secretary shall notify the holder of each such claim of the requirement to make such election. The holder shall make the election by certified mail within 60 days after receiving such notification. Failure to make an election within such period, shall be deemed conclusively to constitute a forfeiture of the claim and the claim shall be null and void.

"(2) The holder of a claim required to make an election under this subsection may elect to apply to the Secretary for a lease under section 21. The Secretary shall promptly provide a lease application to any claimholder who makes such election and the claimholder shall file an application for a lease within 90 days after receiving such application. Upon receiving such an application the Secretary shall issue a lease to the holder of such claim for the area covered by the claim if the claim is determined to be valid. A lease under this paragraph shall be issued in accordance with the provisions of section 21 except as follows:

"(A) The term of the lease shall be 20 years and for so long thereafter as oil shale or associated minerals are produced annually in commercial quantities from the lease.

"(B) The acreage limitations contained in section 21(a) shall not apply.

"(C) The first and second provisos of section 21(a) shall not apply.

"(D) The limitation on the number of leases to be granted to any one person, association, or corporation contained in section 21(a) shall not apply.

"(E) The phrase 'oil shale and gilsonite' in the first sentence of section 21(a) shall be construed to include oil shale and all other associated minerals.

"(3)(A) The holder of a claim making an election under this subsection may elect to maintain the claim by complying with such requirements as the Secretary shall prescribe, by rule, to assure that, during each year that oil shale or associated minerals are not being produced from the claim in commercial quantities, the holder of such claim either makes payments in lieu of diligent development under subparagraph (B) or expends an amount annually which—

"(i) represents diligent efforts toward the production of oil shale or associated minerals (or both),

"(ii) includes substantial work on the claim, and

"(iii) represents not less than $5,000 worth of expenditure on the claim.

"(B) In lieu of making the expenditure described in clauses (i), (ii), and (iii) in any year, the holder of such claim may pay the Secretary an amount equal to $5.000 for the claim for that year. Moneys received by the Secretary under this subparagraph shall be disposed of in the same manner as moneys received pursuant to section 35, except that 50 percent of such moneys shall be transferred to the States and 50 percent shall be deposited in the General Fund of the Treasury.

"(C) The Secretary shall promulgate a final rule under this paragraph within 90 days after the enactment of this subsection. The annual expenditure requirement under such rule shall take effect on the first day of the first month of September which occurs more than 90 days after the enactment of this subsection.

"(D) The Secretary shall review the expenditures made for each such claim not less frequently than annually.

"(E) In applying the provisions of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), the holder of a claim for which an election under this paragraph has been made shall comply with the provisions of subsection (a)(1) thereof only by filing (as provided in such provisions) an affidavit that the annual expenditure (or annual payments in lieu of diligent development) requirements of this paragraph have been met with respect to such claim or that oil shale or associated minerals are being produced from the claim in commercial quantities.

"(F) Failure to comply with the requirements of this paragraph and the requirements of such section 314(a)(1) shall be deemed conclusively to constitute a forfeiture of the claim and the claim shall be null and void. In addition, the Secretary shall declare a claim to be null and void and cancel it on the earlier of the following:

"(i) The date on which the Secretary determines that oil shale and associated minerals are exhausted.

"(ii) The date 100 years after the date of location of the claim.

On the date referred to in clause (ii), the Secretary shall make a determination under this subparagraph and if the Secretary determines that oil shale or associated minerals are being produced in commercial quantities there shall be substituted for such date the date on which the Secretary determines that oil shale or associated minerals cease to be produced from the claim in commercial quantities.

"(G) The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and the provisions of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to claims for which an election under this paragraph has been made in the same manner and to the same extent as such provisions apply to the mining claims referred to therein.

"(e) In addition to other applicable requirements, any person who holds a lease pursuant to paragraph (2) of subsection (d) or who maintains a claim pursuant to paragraph (3) of subsection (d) or pursuant to subsection (f) shall be required, by regulation, to reclaim the site subject to such lease or claim and to post a surety bond or provide other types of financial guarantee satisfactory to the Secretary before disturbance of the site to ensure such reclamation. The Secretary shall promulgate such regulations as may be necessary to implement this subsection.

"(f)(1) If a patent application was filed with the Secretary before January 24, 1989, for an oil shale claim referred to in subsection (a) but all requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 86, and 37) were not fully complied with by that date, the Secretary may issue a patent under this subsection notwithstanding the failure to meet those requirements by that date if such requirements are subsequently met and the Secretary determines the claim to be valid (after review as provided in subsection (c)). The patent shall be limited to the oil shale and associated minerals on such claim. Upon compliance with such requirements, such patent may be issued upon payment to the Secretary of $2,000 per acre.

"(2) Any patent under this subsection shall be subject to an express reservation of the surface of the affected lands, and the provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to such claim in the same manner and to the same extent as such provisions apply to the unpatented mining claims referred to in such provisions.

"(3) No claimholder having a claim described in this subsection shall be required to make an election under subsection (d).".

Subtitle D—Reclamation Fees

SEC. 5401. ABANDONED MINE RECLAMATION FUND.

(a) SOURCES OF DEPOSITS.—Section 401(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(b)) is amended as follows:

(1) Amend paragraph (1) to read as follows:

"(1) the reclamation fees levied under section 402;".

(2) Strike "and" at the end of paragraph (3); strike the period at the end of paragraph (4) and insert "; and"; and add the following new paragraph at the end:

"(5) interest credited to the fund under subsection (e).".

(b) USE OF MONEYS.—Section 401(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)) is amended as follows:

(1) In paragraph (1), strike "402(g)(2)" and insert "402(g)(1)".

(2) Amend paragraph (2) to read as follows:

"(2) for transfer on an annual basis to the Secretary of Agriculture for use under section 406;".

(3) In paragraph (6), strike "by contract" and insert "conducted in accordance with section 3501 of the Omnibus Budget Reconciliation Act of 1986" after "projects".

(4) Strike "and" at the end of paragraph (9).

(5) Strike paragraph (10) and insert the following:

"(10) for use under section 411;

"(11) for the purpose of section 507(c), except that not more than $10,000,000 shall annually be available for such purpose; and

"(12) all other necessary expenses to accomplish the purposes of this subtitle.".

(c) INTEREST.—Section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by adding the following new subsection at the end:

"(e) INTEREST.—The Secretary of the Interior shall invest such portion of the fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the fund.".

SEC. 5402. RECLAMATION FEES.

(a) RATE.—Section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) is amended by adding the following at the end: "The rate at which such fee is imposed shall be modified as provided in section 411(a) in the case of any State or Indian tribe certified under section 411(a).".

(b) DUE DATE.—Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "fifteen years after the date of enactment of this Act unless extended by an Act of Congress" and inserting "ending September 30, 2007".

(c) STATEMENT.—Section 402(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(c)) is amended by adding the following at the end thereof: "Such statement shall include an identification of the permittee of the coal mining operation if different from the operator, the owner of the coal, the preparation plant, tipple, or loading point for the coal, and the

person purchasing the coal from the operator. The report shall also specify the number of the permit required under section 510 and the mine safety and health identification number. Each quarterly report shall contain a notification of any changes in the information required by this subsection since the date of the preceding quarterly report. The information contained in the quarterly reports under this subsection shall be maintained by the Secretary in a computerized database.".

(d) AUDITS.—Section 402(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(d)) is amended by inserting "(1)" after "(d)" and by adding the following at the end thereof:

"(2) The Secretary shall conduct such audits of coal production and the payment of fees under this subtitle as may be necessary to ensure full compliance with the provisions of this subtitle. For purposes of performing such audits the Secretary (or any duly designated officer, employee, or representative of the Secretary) shall, at all reasonable times, upon request, have access to, and may copy, all books, papers, and other documents of any person subject to the provisions of this subtitle. The Secretary may at any time conduct audits of any coal mining and reclamation operation, including without limitation, tipples and preparation plants, as may be necessary in the judgment of the Secretary to ensure full and complete payment of the fees under this subtitle.".

(e) NOTICE.—Section 402(f) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(f)) is amended by adding the following at the end thereof: "Whenever the Secretary believes that any person has not paid the full amount of the fee payable under subsection (a) the Secretary shall notify the Federal agency responsible for ensuring compliance with the provisions of section 4121 of the Internal Revenue Code of 1986.".

SEC. 5403. ALLOCATION OF FUNDS.

Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended to read as follows:

"(g) ALLOCATION OF FUNDS.—(1) Moneys deposited into the fund shall be allocated by the Secretary to accomplish the purposes of this subtitle as follows:

"(A) 50 percent of the reclamation fees collected annually in any State (other than fees collected with respect to Indian lands) shall be allocated annually by the Secretary to the State, subject to such State having each of the following—

"(i) An approved abandoned mine reclamation program pursuant to section 405.

"(ii) Lands, waters, and facilities which are eligible pursuant to section 404 (in the case of a State not certified under section 411(a)) or pursuant to section 411(b) (in the case of a State certified under section 411(a)).

"(B) 50 percent of the reclamation fees collected annually with respect to Indian lands shall be allocated annually by the Secretary to the Indian tribe having jurisdiction over such lands, subject to such tribe having each of the following—

"(i) An approved abandoned mine reclamation program pursuant to section 405.

"(ii) Lands, waters, and facilities which are eligible pursuant to section 404 (in the case of an Indian tribe not certified under section 411(a)) or pursuant to section 411(b) (in the case of a tribe certified under section 411(a)).

"(C) The funds allocated by the Secretary under this paragraph to States and Indian tribes shall only be used for annual reclamation project construction and program administration grants.

"(D) To the extent not expended within 3 years after the date of any grant award under this paragraph, such grant shall be available for expenditure by the Secretary in any area under paragraph (2), (3), (4), or (5).

"(2) 20 percent of the amounts available in the fund in any fiscal year which are not allocated under paragraph (1) in that fiscal year (including that interest accruing as provided in section 401(e) and including funds available for reallocation pursuant to paragraph (1)(C)), shall be allocated to the Secretary only for the purpose of making the annual transfer to the Secretary of Agriculture under section 401(c)(2).

"(3) Amounts available in the fund which are not allocated to States and Indian tribes under paragraph (1) or allocated under paragraph (2) and paragraph (5) are authorized to be expended by the Secretary for any of the following:

"(A) For the purpose of section 507(c), either directly or through grants to the States, subject to the limitation contained in section 401(c)(11).

"(B) For the purpose of section 410 (relating to emergencies).

"(C) For the purpose of meeting the objectives of the fund set forth in section 403(a) for eligible lands, waters, and facilities pursuant to section 404 in States and on Indian lands where the State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405.

"(D) For the administration of this subtitle by the Secretary.

"(4)(A) Amounts available in the fund which are not allocated under paragraphs (1), (2), and (5) or expended under paragraph (3) in any fiscal year are authorized to be expended by the Secretary under this paragraph for the reclamation or drainage abatement of lands and waters within unreclaimed sites which were mined for coal or which were affected by such mining, wastebanks, coal processing or other coal mining processes and left in an inadequate reclamation status.

"(B) Funds made available under this paragraph may be used for reclamation or drainage abatement at a site referred to in subparagraph (A) if the Secretary makes either of the following findings:

"(i) A finding that the coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date on which the Secretary approved a State program pursuant to section 503 for State in which the site is located, and that any funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

"(ii) A finding that the surety of the mining operator became insolvent prior to the date of enactment of this paragraph, and as of such date, funds immediately available from proceedings relating to such insolvency, or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

"(C) In determining which sites to reclaim pursuant to this paragraph, the Secretary shall follow the priorities stated in paragraphs (1) and (2) of section 403(a). The Secretary shall ensure that priority is given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a local community.

"(D) Amounts collected from the assessment of civil penalties under section 518 are authorized to be appropriated to carry out this paragraph.

"(E) Any State may expend grants made available under paragraphs (1) and (5) for reclamation and abatement of any site referred to in subparagraph (A) if the State, with the concurrence of the Secretary, makes either of the findings referred to in clause (i) or (ii) of subparagraph (B) and if the State determines that the reclamation priority of the site is the same or more urgent than the reclamation priority for eligible lands and waters pursuant to section 404 under the priorities stated in paragraphs (1) and (2) of section 403(a).

"(F) For the purposes of the certification referred to in section 411(a), sites referred to in subparagraph (A) of this paragraph shall be considered as having the same priorities as those stated in section 403(a) for eligible lands and waters pursuant to section 404. All sites referred to in subparagraph (A) of this paragraph within any State shall be reclaimed prior to such State making the certification referred to in section 411(a).

"(5) The Secretary shall allocate 40 percent of the amount in the fund after making the allocation referred to in paragraph (1) for making additional annual grants to States and Indian tribes which are not certified under section 411(a) to supplement grants received by such States and Indian tribes pursuant to paragraph (1)(C) until the priorities stated in paragraphs (1) and (2) of section 403(a) have been achieved by such State or Indian tribe. The allocation of such funds for the purpose of making such expenditures shall be through a formula based on the amount of coal historically produced in the State or from the Indian lands concerned prior to August 3, 1977. Funds allocated or expended by the Secretary under paragraph (2), (3), or (4) of this subsection for any State or Indian tribe shall not be deducted against any allocation of funds to the State or Indian tribe under paragraph (1) or under this paragraph.

"(6) Any State may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 10 percent of the total of the grants made annually to such State under paragraphs (1) and (5) if such amounts are deposited into either—

"(A) a special trust fund established under State law pursuant to which such amounts (together with all interest earned on such amounts) are expended by the State solely to achieve the priorities stated in section 403(a) after the year 2007, or

"(B) an acid mine drainage abatement and treatment fund established under State law as provided in paragraph (7).

"(7)(A) Any State may establish under State law an acid mine drainage abatement and treatment fund from which amounts (together with all interest earned on such amounts) are expended by the State to implement, in consultation with the Soil Conservation Service, acid mine drainage abatement and treatment plans approved by the Secretary. Such plans shall provide for the comprehensive abatement of the causes and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices.

"(B) The plan shall include, but shall not be limited to, each of the following:

"(i) An identification of the qualified hydrologic unit.

"(ii) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit.

"(iii) An identification of the sources of acid mine drainage within the hydrologic unit.

"(iv) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage with the hydrologic unit.

"(v) The cost of undertaking the proposed abatement and treatment measures.

"(vi) An identification of existing and proposed sources of funding for such measures.

"(vii) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

"(C) The Secretary may approve any plan under this paragraph only after determining that such plan meets the requirements of this paragraph. In conducting an analysis of the items referred to in clauses (iv), (v), and (vii) the Director of the Office of Surface Mining shall obtain the comments of the Director of the Bureau of Mines. In approving plans under this paragraph, the Secretary shall give a priority to those plans which will be implemented in coordination with measures undertaken by the Secretary of Agriculture under section 406.

"(D) For purposes of this paragraph the term 'qualified hydrologic unit' means a hydrologic unit—

"(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner which adversely impacts biological resources; and

"(ii) which contains lands and waters which are—

"(I) eligible pursuant to section 404 and include any of the priorities stated in section 403(a); and

"(II) proposed to be the subject of the expenditures by the State (from amounts available from the forfeiture of bonds required under section 509 or from other State sources) to mitigate acid mine drainage.

"(8) Of the funds available for expenditure under this subsection in any fiscal year the Secretary shall allocate annually not less than $2,000,000 for expenditure in each State, and for each Indian tribe, having an approved abandoned mine reclamation program pursuant to section 405 and, eligible lands, waters, and facilities pursuant to section 404 so long as an allocation of funds to such State or such tribe is necessary to achieve the priorities stated in paragraphs (1) and (2) of section 403(a).".

SEC. 5404. FUND OBJECTIVES.

Section 403 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended as follows:

(1) Insert "(a) PRIORITIES.—" after "SEC. 403.".

(2) Strike "lands and water" and insert "lands, waters, and facilities".

(3) Insert ", except as provided for under section 411," after "title".

(4) Insert "and" after paragraph (2).

(5) Strike paragraphs (4), (5), and (6).

(6) Add at the end the following new subsections:

"(b) UTILITIES AND OTHER FACILITIES.—(1) Reclamation projects involving the protection, repair, replacement, construction or enhancement of utilities, such as those relating to water supply, roads and such other facilities serving the public adversely affected by coal mining practices shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (a).

"(2) Any State or Indian tribe not certified under section 411(a) may expend up to 30 percent of the funds allocated to such State or Indian tribe in any year through the grants made available under paragraphs (1) and (5) of section 402(g) for the purpose of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices.

"(3) If the adverse effect on water supplies referred to in this subsection occurred both prior to and after August 3, 1977, section 404 shall not be construed to prohibit a State or Indian tribe referred to in paragraph (2) from using funds referred to in such paragraph for the purposes of this subsection if the State or Indian tribe determines that such adverse effects occurred predominantly prior to August 3, 1977.

"(c) INVENTORY.—For the purposes of assisting in the planning and evaluation of reclamation projects pursuant to section 405, and assisting in making the certification referred to in section 411(a), the Secretary shall maintain an inventory of eligible lands and waters pursuant to section 404 which meet the priorities stated in paragraphs (1) and (2) of subsection (a). Under standardized procedures established by the Secretary, States and Indian tribes with approved reclamation programs pursuant to section 405 may offer amendments to update the inventory as it applies to eligible lands and waters under the jurisdiction of such States or tribes. The Secretary shall provide such States and tribes with the financial and technical assistance necessary for the purpose of making inventory amendments. The Secretary shall compile and maintain an inventory for States and Indian lands in the case when a State or Indian tribe does not have an approved reclamation program pursuant to section 405. On a regular basis, but not less than annually, the projects completed under this subtitle shall be so noted on the inventory under standardized procedures established by the Secretary.".

SEC. 5405. ELIGIBLE LANDS AND WATERS.

Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by inserting ", except as provided for under section 411" after "processes", and by adding the following at the end thereof: "For other provisions relating to lands and waters eligible for such expenditures, see section 402(g)(4), section 403(b)(2), and section 409.".

SEC. 5406. STATE RECLAMATION PROGRAMS.

Section 405 of of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1235) is amended by adding the following at the end thereof:

"(l) No State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out a State abandoned mine reclamation plan approved under this section. This subsection shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.".

SEC. 5407. CLARIFICATION.

Section 406(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(d)) is amended by striking "experimental".

SEC. 5408. VOIDS AND TUNNELS.

Section 409 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1239) is amended—

(1) in subsection (a) by striking "chairman of any tribe" and inserting in lieu thereof "the governing body of an Indian tribe";

(2) in subsection (b), by striking "or Indian reservations under the provisions of subsection 402(g)" and inserting "or Indian tribes under the provisions of paragraphs (1) and (5) of section 402(g)"; and

(3) by amending subsection (c) to read as follows:

"(c)(1) The Secretary may make expenditures and carry out the purposes of this section in such States where requests are made by the Governor or governing body of an Indian tribe for those reclamation projects which meet the priorities stated in section 403(a)(1), except that for the purposes of this section the reference to coal in section 403(a)(1) shall not apply.

"(2) The provisions of section 404 shall apply to this section, with the exception that such mined lands need not have been mined for coal.

"(3) The Secretary shall not make any expenditures for the purposes of this section in those States which have made the certification referred to in section 411(a).".

SEC. 5409. EMERGENCY PROGRAM.

Section 410 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240) is amended as follows:

(1) In the third sentence of subsection (b), strike "such land and shall" and insert "such land to the extent necessary to".

(2) Add at the end the following new subsection:

"(c) In making expenditures from the fund to undertake reclamation projects for the purposes of this section, the Secretary shall ensure that all adverse effects of coal mining practices meeting the priorities stated in paragraphs (1) and (2) of section 403(a) which exist at such reclamation projects are abated through such expenditure.".

SEC. 5410. CERTIFICATION.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) is amended as follows:

(1) Redesignate sections 411, 412, and 413 as sections 412, 413, and 414, respectively.

(2) Insert after section 410 the following new section:

"SEC. 411. CERTIFICATION.

"(a) MODIFICATION OF FEES.—Where the Governor of a State, or the head of a governing body of an Indian tribe, with an approved abandoned mine reclamation program under section 405 certifies to the Secretary that all of the priorities stated in section 403(a) for eligible lands, waters, and facilities pursuant to section 404 have been achieved, and the Secretary, after notice in the Federal Register and opportunity for public comment, concurs with such certification, the rate at which the reclamation fees are applicable to such State or tribe under section 402(a) shall be modified. The modified fees shall be at a rate of 18 cents per ton of coal produced by surface coal mining and 8 cents per ton of coal produced by underground coal mining, or 10 percent of the value of the coal at the mine, as determined by the Secretary, whichever is less, except that the reclamation fee for lignite coal shall be at a rate of 2 percent of the value of the coal of the mine, or 5 cents per ton, whichever is less. A certification under this section may be issued by the Secretary on his own motion after consultation with the State or Indian tribe concerned and after notice in the Federal Register and opportunity for public comment. Certification under this subsection as it relates to the modified fees may not take place until after 1992. The Secretary may concur with any certification by a State or Indian tribe in any region or certify any such State or tribe on his own motion, but may not concur with the modified fees or modify such fees on his own motion if, upon a motion made by a State or Indian tribe within the same

region, the Secretary determines that such modified fees would result in a significant competitive disadvantage in the production and marketing of coal for the State or Indian tribe which made such motion.

"(b) ELIGIBLE LANDS, WATERS, AND FACILITIES.—If the Secretary has concurred in a State or tribal certification under subsection (a), for purposes of determining the eligibility of lands, waters, and facilities for annual grants under section 402(g)(1), section 404 shall not apply, and eligible lands, waters, and facilities shall be those—

"(1) which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to August 3, 1977; and

"(2) for which there is no continuing reclamation responsibility under State or other Federal laws,

In determining the eligibility under this subsection of Federal lands, waters, and facilities under the jurisdiction of the Forest Service or Bureau of Land Management, in lieu of the August 3, 1977, date referred to in paragraph (1) the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

"(c) PRIORITIES.—Expenditures of moneys for lands and waters referred to in subsection (b) shall reflect the following objectives and priorities in the order stated (in lieu of the priorities set forth in section 403):

"(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of mineral mining and processing practices.

"(2) The protection of public health, safety, and general welfare from adverse effects of mineral mining and processing practices.

"(3) The restoration of land and water resources and the environment previously degraded by the adverse effects of mineral mining and processing practices.

"(d) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this section.

"(e) UTILITIES AND OTHER FACILITIES.—Reclamation projects involving the protection, repair, replacement, construction, or enhancement of utilities, such as those relating to water supply, roads, and such other facilities serving the public adversely affected by mineral mining and processing practices, and the construction of public facilities in communities impacted by coal or other mineral mining and processing practices, shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (c).

"(f) APPLICATION OF OTHER PROVISIONS.—The provisions of sections 407 and 408 shall apply to this section, except that for purposes of this section the references to coal in sections 407 and 408 shall not apply.".

SEC. 5411. SMALL OPERATOR ASSISTANCE.

Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended by striking "100,000" and inserting "300,000".

SEC. 5412. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—The table of contents in the first section of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201) is amended as follows:

(1) Redesignate the items relating to sections 411, 412, and 413 as items 412, 413, and 414, respectively.

(2) Insert after the item relating to section 410 the following:

"Sec. 411. Certification.".

(b) REFERENCE.—Section 712(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended to read as follows:

"(b) For the implementation and funding of section 507(c), see the provisions of section 401(c)(11).".

(c) REPEAL.—Section 406(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(i)) is repealed.

(d) TECHNICAL CORRECTIONS.—The following provisions of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) are amended as follows:

(1) Section 405(a) is amended by striking out "perparation" and inserting "preparation".

(2) Section 405(h) is amended by striking out "Upon approved" and inserting "Upon approval".

(3) Section 406(a) is amended by striking out "including owners" and inserting "(including owners",

(4) Section 407(a)(4) is amended by striking out the period and inserting a semicolon.

(5) Section 407(a) is amended by striking out "Then" and inserting "then".

(6) Section 407(e) is amended by striking out "paragraph (1), of this subsection" and inserting "paragraph (1) of subsection (c)".

(7) Section 407(g)(2) is amended by striking out "the use of" and inserting "the use or".

SEC. 5413. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to affect the certification made by the State of Wyoming to the Secretary of the Interior prior to the date of enactment of this Act that such State has completed the reclamation of eligible abandoned coal mine lands, except that for the purposes of the amendments made by this subtitle, the State of Wyoming shall not be deemed to have made the certification as it relates to the modified fees referred to in subsection (a) of section 411, as added by this subtitle, until the date referred to in such subsection.

SEC. 5414. ABANDONED MINERALS AND MINERAL MATERIALS MINE RECLAMATION FUND.

(a) NEW SUBTITLE.—Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by inserting

"Subtitle A—Abandoned Mine Reclamation Fund"

immediately before section 401 and by adding the following new subtitle at the end thereof:

"Subtitle B—Abandoned Minerals and Mineral Materials Mine Reclamation Fund

"SEC. 421. ABANDONED MINERALS AND MINERAL MATERIALS MINE RECLAMATION.

"(a) ESTABLISHMENT.—There is established on the books of the Treasury of the United States a trust fund to be known as the Abandoned Minerals and Mineral Materials Mine Reclamation Fund (hereinafter in this subtitle referred to as the 'Fund'). The Fund shall be administered by the Secretary of the Interior acting through the Director, Office of Surface Mining Reclamation and Enforcement.

"(b) AMOUNTS.—The following amounts shall be credited to the Fund for the purposes of this Act:

"(1) All moneys received (after the commencement of the first fiscal year beginning after the enactment of this subtitle) from the disposal of mineral materials pursuant to section 3 of the Act of July 31, 1947 (30 U.S.C. 603) to the extent such moneys are not specifically dedicated to other purposes under other authority of law.

"(2) Donations by persons, corporations, associations, and foundations for the purposes of this subtitle.

"(3) Such other amounts as may be appropriated to the Fund.

"SEC. 422. USE AND OBJECTIVES OF THE FUND.

"(a) IN GENERAL.—The Secretary is authorized to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past minerals and mineral materials mining, including but not limited to, any of the following:

"(1) Reclamation and restoration of abandoned surface mined areas.

"(2) Reclamation and restoration of abandoned milling and proccssing areas.

"(3) Sealing and filling abandoned deep mine entries.

"(4) Planting of land adversely affected by past mining to prevent erosion and sedimentation.

"(5) Prevention, abatement, treatment, and control of water pollution created by abandoned mine drainage.

"(6) Control of surface subsidence due to abandoned deep mines.

"(7) Such expenses as may be necessary to accomplish the purposes of this subtitle.

"(b) PRIORITIES.—Expenditure of moneys from the Fund shall reflect the following priorities in the order stated:

"(1) The protection of public health, safety, general welfare and property from extreme danger from the adverse effects of past minerals and mineral materials mining practices.

"(2) The protection of public health, safety, and general welfare from the adverse effects of past minerals and mineral materials mining practices.

"(3) The restoration of land and water resources previously degraded by the adverse effects of past minerals and mineral materials mining practices.

"(c) UTILITIES AND OTHER FACILITIES.—Reclamation projects involving the protection, repair, replacement, construction, or enhancement of utilities, such as those relating to water supply, roads, and such other facilities serving the public adversely affected by mineral and mineral materials mining and processing practices, and the construction of public facilities in communities impacted by mineral and mineral materials mining and processing practices, shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (b).

"SEC. 423. ELIGIBLE AREAS.

"(a) ELIGIBILITY.—Lands, waters, and facilities eligible for reclamation expenditures under this Act shall be those—

"(1) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this subtitle; and

"(2) for which there is no continuing reclamation responsibility under State or Federal laws.

In determining the eligibility under this subsection of Federal lands, waters, and facilities under the jurisdiction of the Forest Service or Bureau of Land Management in lieu of the date referred to in paragraph (1), the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

"(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this subtitle.

"SEC. 424. FUND ALLOCATION AND EXPENDITURES.

"(a) ALLOCATIONS—(1) Moneys available for expenditure from the Fund shall be allocated on an annual basis by the Secretary in the form of grants to eligible States, or in the form of expenditures under subsection (b), to accomplish the purposes of this subtitle. Such moneys may also be provided pursuant to cooperative agreements between such States and the Bureau of Land Management, the Forest Service, or the National Park Service for such purposes.

"(2) The Secretary shall distribute moneys from the Fund to eligible States and to the entities described under subsection (b) based on the greatest need for such moneys pursuant to the priorities stated in section 422(b). In determining the greatest need for the distribution of moneys from the Fund, the Secretary shall give priority to those eligible States which do not receive grants under subtitle A.

"(b) DIRECT FEDERAL EXPENDITURES.—Where a State is not eligible, or in instances where the purposes of this subtitle may best be accomplished otherwise, moneys available from the Fund may be:

"(1) Expended directly by the Secretary through the Director, Office of Surface Mining Reclamation and Enforcement.

"(2) Expended through grants made by the Secretary through the Director of the Bureau of Land Management.

"(3) Expended through grants made by the Secretary to the Chief of United States Forest Service.

"(4) Expended through grants made by the Secretary through the Director of the National Park Service.

"SEC. 425. STATE RECLAMATION PROGRAMS.

"(a) ELIGIBLE STATES.—For the purpose of section 424(a), an 'eligible State' is one which the Secretary determines to meet each of the following requirements:

"(1) Within the State there are mined lands, waters, and facilities eligible for reclamation pursuant to section 423.

"(2) The State has developed an inventory of such areas following the priorities established under section 422(b).

"(3) The State has established, and the Secretary has approved, a State abandoned minerals and mineral materials mine reclamation program for the purpose of receiving and administering grants under this subtitle. Any State with an approved abandoned mine reclamation program pursuant to section 405 shall be deemed to have met the requirements of this paragraph.

"(b) MONITORING.—The Secretary shall monitor the expenditure of State grants to ensure they are being utilized to accomplish the purposes of this subtitle.

"(c) SUPPLEMENTAL GRANTS.—In the case of any State with an approved abandoned mine reclamation program pursuant to section 405, grants to such State made pursuant to this subtitle may be made as a supplement to grants received by such State pursuant to section 402(g)(1).

"(d) STATE PROGRAMS.—(1) The Secretary shall approve any State abandoned minerals and mineral materials mine reclamation program submitted to the Secretary by a State under this subtitle if the Secretary finds that the State has the ability and necessary State legislation to implement such program and that the program complies with the provisions of this subtitle and the regulations of the Secretary under this subtitle.

"(2) No State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out an approved State abandoned minerals and mineral materials mine reclamation program under this section. This paragraph shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

"SEC. 426. AUTHORIZATION OF APPROPRIATIONS; TERMINATION.

"(a) AUTHORIZATION OF APPROPRIATIONS.—Amounts credited to the Fund are authorized to be appropriated for the purpose of this subtitle without fiscal year limitations.

"(b) TERMINATION.—The Fund established under this subtitle and the authorities provided in this subtitle shall terminate September 30, 2007.".

(b) RULEMAKING.—The Secretary of the Interior shall promulgate such rules as may be necessary to implement the amendments made by this section within 180 days after the enactment of this Act.

(c) CONFORMING CHANGE.—All references to "this title" in sections 401 through 413 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) are amended to read "this subtitle".

(d) TABLE OF CONTENTS.—The table of contents for title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) is amended by inserting

"Subtitle A—Abandoned Mine Reclamation Fund"

immediately before the item relating to section 401 and by adding the following at the end thereof:

"Subtitle B—Abandoned Minerals and Mineral Materials Mine Reclamation Fund

"Sec. 421. Abandoned minerals and mineral materials mine reclamation.
"Sec. 422. Use and objectives of fund.
"Sec. 423. Eligible areas.
"Sec. 424. Fund allocation and expenditures.
"Sec. 425. State reclamation programs.
"Sec. 426. Authorization of appropriations; termination.".

SEC. 5415. ENVIRONMENTAL STANDARDS.

(a) NEW SECTION.—Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by adding the following new section after section 414:

"SEC. 415. ENVIRONMENTAL STANDARDS.

"The Secretary shall, within one year after the enactment of this section, establish by regulation reasonable and effective environmental standards for abandoned coal mine reclamation projects funded under this subtitle, and shall develop and implement procedures to ensure that such standards are met. In promulgating the standards, the Secretary shall incorporate the standards set forth in section 515 and section 516 to the extent he deems such standards appropriate for purposes of this subtitle.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Surface Mining Control and Reclamation Act of 1977 is amended by adding the following new item after the item relating to section 414:

"Sec. 415. Environmental standards.".

SEC. 5416. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect at the beginning of the first fiscal year immediately following the fiscal year in which this subtitle is enacted.

Subtitle E—Bryce Canyon Coal Lease Sale

SEC. 5501. DEFINITIONS.

As used in this subtitle—

(1) The term "Alton coal leases" means the Federal coal leases in the State of Utah, serial numbered SL064507, SL058575, U0122583, U0105404, U0122675, U098774, U0140770, U0122584, U098775, U0147999, U098705, U060746, U083072, U0122579, U0101153, U060745 and U065012.

(2) The term "the Alton coal lease holder" means the lessee of record holding the Alton coal leases.

(3) The term "Manti-La Sal lands" means the following lands in the State of Utah:

R6E, T15S S.L.B.&M
Sec. 25 SE¼
R6E, T16S
Sections 1, 11, 12, 13, 14—All
Sec. 23—E½
Sec. 24—All
Sec. 25—N½
Sec. 26—N½NE¼
R7E, T15S
Sec. 30—lots 7-12
Sec. 31—NE¼, N½SE¼, SW¼SE¼, lots 1-12
R7E, T16S
Sec. 6—SW¼NE¼, S½SE¼, lots 2-8
Sections 7 and 18—All
Sec. 19—NE¼, lots 1-4
Sec. 30—lots 1-4

SEC. 5502. COMPETITIVE COAL LEASE SALE.

(a) LEASE SALE.—(1) Notwithstanding any other provision of law, not later than 120 days after the enactment of this Act the Secretary of the Interior (hereinafter in this subtitle referred to as the "Secretary") shall conduct a competitive coal lease sale pursuant to section 2(a)(1) of the Mineral Leasing Act for an area that includes, at a minimum, the Manti-La Sal lands.

(2) All bids submitted at the lease sale referred to in paragraph (1) shall be accompanied by a performance bond, filed with the Secretary, in an amount equal to the amount of the bonus bid or bids for the lease or leases offered at such sale. The performance bond shall be—

(A) released upon the payment by the successful bidder of the second installment of the bonus amount;

(B) forfeited to the United States in the event the successful bidder fails to make such bonus payments; or

(C) released, in the case of unsuccessful bidders, immediately after the lease sale.

(b) ELIGIBILITY.—Notwithstanding section 2(a)(2)(A) of the Mineral Leasing Act, the Alton coal lease holder shall be deemed eligible to bid on any coal lease offered at the sale referred to in subsection (a), and shall be eligible to receive such lease or leases if such lease holder is the highest successful bidder. This subsection applies only if such lease holder files the notice, and the Secretary makes the determination, referred to in section 5503.

SEC. 5503. CONDITIONS.

(a) NOTICE.—The Alton coal lease holder shall be eligible to receive any coal lease offered at the sale referred to in section 5502(a) only if, within 90 days after the enactment of this Act, such lease holder files with the Secretary a notice of intent to relinquish the Alton coal leases. If the Secretary determines that the notice meets the requirements of this subsection, the provisions of the notice shall be binding upon both the Alton coal lease holder and the Secretary and the Secretary shall immedi-

ately issue to such lease holder a certificate of bidding rights as provided under subsection (b). Such notice shall stipulate that if the Alton coal lease holder is the successful bidder, and is issued any coal lease at the sale referred to in section 5502(a)—

(1) the Alton coal lease holder will immediately relinquish to the Secretary (and the Secretary will promptly accept) all interests in the Alton coal leases; and

(2) after the issuance to such lease holder of any new lease offered at the sale referred to in section 5502(a) the prohibition of section 2(a)(2)(A) of the Mineral Leasing Act shall apply to such lease holder until the date coal is produced in commercial quantities from such new lease or leases or from a logical mining unit into which the new lease or leases have been consolidated.

(b) BIDDING RIGHTS.—The certificate of bidding rights referred to in subsection (a) shall—

(1) be used by the Alton coal lease holder only for the purposes of bidding on any coal lease at the sale referred to in section 5502(a);

(2) not be sold or transferred by the Alton coal lease holder to any other entity;

(3) be considered by the Secretary as a credit in lieu of a cash bonus payment, or portion of such payment, against the bonus bid submitted by the Alton coal lease holder at the coal lease sale referred to in section 5502(a); and

(4) be in an amount that is equal to the amount invested by the Alton coal lease holder in the Alton coal leases prior to the date of enactment of this Act, as determined by the Secretary and verified by the Comptroller General of the United States, except that such amount shall not exceed $5,000,000.

SEC. 5504. MISCELLANEOUS.

(a) FAIR MARKET VALUE.—No consideration shall be given by the Secretary to the amount referred to in section 5503(b)(4) in making a determination of fair market value pursuant to section 2(a)(1) of the Mineral Leasing Act for the purposes of conducting the lease sale referred to in section 5502(a).

(b) REQUIREMENT.—The Secretary shall conduct the lease sale referred to in section 5502(a) notwithstanding the requirement of section 2(a)(3)(A)(iii) of the Mineral Leasing Act.

(c) PAYMENTS.—All money received from the bonus payment, rentals and royalties from the coal lease or leases issued under this subtitle shall be treated in accordance with section 35 of the Mineral Leasing Act, except that—

(1) amounts other than the State share of such money shall be credited to the fund established pursuant to the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 and following);

(2) the State shall receive 50 percent of the bonus bid, including that portion of such bid represented by bidding rights, as a cash payment, of which 20 percent of the amount represented by such cash payment in lieu of the State's share of the bidding rights shall be paid directly to Garfield County, Utah, and 20 percent of the amount represented by such cash payment in lieu of the State's share of the bidding rights shall be paid directly to Kane County, Utah; and

(3) in the event there is an insufficient amount of cash in the Federal share of the bonus bid to provide for the payment referred to in paragraph (2), the balance shall be paid to the State. Garfield and Kane Counties from the Federal share of production royalties collected from any coal lease issued under the Act.

(d) PERMIT.—The Secretary of Agriculture shall issue a special use permit to the successful bidder at the lease sale referred to in section 5502(a) for the purposes of accommodating more than a single entry into any underground mining operation proposed by such lease holder to produce coal from such lease or leases.

(e) WITHDRAWAL.—Upon relinquishment of the Alton coal leases the lands subject to such leases shall be withdrawn from the operation of the coal leasing provisions of the Mineral Leasing Act.

(f) MONITORING.—The Comptroller General of the United States shall monitor the Secretary's implementation of this subtitle and shall file a preliminary report with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the Secretary's progress in complying with this subtitle 60 days prior to the lease sale referred to in section 5502(a) and shall file a final report after the date of such sale.

Subtitle F—Bureau of Land Management

SEC. 5601. AUTHORIZATION FOR BUREAU OF LAND MANAGEMENT ACTIVITIES.

That there are hereby authorized to be appropriated such sums as may be necessary for programs, functions, and activities of the Bureau of Land Management, Department of the Interior (including amounts necessary for increases in salary, pay, retirements, and other employee benefits authorized by law, and for other nondiscretionary costs) during fiscal years beginning on October 1, 1990, and ending September 30, 1994.

SEC. 5602. DEFINITIONS.

(a) AREAS OF CRITICAL ENVIRONMENTAL CONCERN.—Section 103(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(a)) is amended to read as follows:

"(a) The term 'areas of critical environmental concern' means areas within the public lands where special management attention (which may include restrictions on or prohibition of development) is required in order—

"(1) to protect important resources and values (including environmental, ecological, historic, cultural, scenic, fish and wildlife, and scientific resources and values) located on or likely to be affected by the use of public lands (but it is not the intent of Congress that the Secretary establish protective perimeters or buffer zones around such areas);

"(2) to protect life and safety from natural hazards; or

"(3) to protect or enhance the resources and values of a conservation system unit, but it is not the intent of Congress that the Secretary establish protective perimeters or buffer zones around conservation system units.".

(b) CONSERVATION SYSTEM UNIT.—Section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702) is amended by adding at the end thereof the following new subsection:

"(q) The term 'conservation system unit' means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or a National Conservation Area or National Forest Monument.".

SEC. 5603. MAJOR USES AND INVENTORIES.

(a) DEFINITION.—Section 103(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(1)) is amended—

(1) by striking "fish and wildlife development and utilization," and inserting in lieu thereof "maintenance of plant communities, maintenance of fish and wildlife populations and habitat, utilization of fish or wildlife populations,"; and

(2) by striking "and timber production" and inserting in lieu thereof "timber production, reforestation, and scientific research".

(b) INVENTORY.—Section 201(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711(a)) is amended by striking the period at the end of the first sentence and inserting in lieu thereof "and riparian areas.".

(c) MANAGEMENT DECISIONS.—Section 202(e)(2) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(e)(2)) is amended by striking "the Congress adopts a concurrent resolution" and inserting in lieu thereof "there is enacted a joint resolution".

SEC. 5604. PLANNING REQUIREMENTS.

(a) DEADLINES.—Section 202(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(a)) is amended—

(1) by designating section 202(a) as section 202(a)(1); and

(2) by adding at the end of section 202(a) the following new paragraphs:

"(2) Land use plans meeting the requirements of this Act shall be developed for all the public lands outside Alaska no later than January 1, 1997, and for all public lands no later than January 1, 1999.

"(3) Land use plans shall be revised from time to time when the Secretary finds that conditions have changed so as to make such revision appropriate or necessary for proper management of the public lands covered by any such plan, but in any event at least every 15 years.".

(b) CRITERIA.—(1) Section 202(c)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)(1)) is amended to read as follows:

"(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law and evaluate the feasibility of measures, consistent with such principles, that would enhance the extent to which the public lands can support increases in the numbers and types of plant communities and fish and wildlife populations located on or supported by such lands;".

(2) Section 202(c)(3) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)(3)) is amended to read as follows:

"(3) give priority to the designation and protection of areas of critical environmental concern and to identification, protection, and enhancement of the ecological, environmental, fish and wildlife, and other resources and values of riparian areas.".

(3) Section 202(c)(5) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(c)(5)) is amended to read as follows:

"(5) consider present and potential uses (including recreational and other nonconsumptive uses) of the public lands;".

SEC. 5605. PROFESSIONAL QUALIFICATIONS.

Section 301(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1731(c)) is amended to read as follows:

"(c) In addition to the Director, there shall be a Deputy Director and so many Assistant Directors, State Directors, and other employees as may be necessary, appointed by the Secretary. After May 1, 1989, no person may be appointed as Deputy Director of the Bureau or as an Assistant Director or State Director who is not at the time of appointment either a career appointee (as defined in section 3132(4) of title 5, United States Code) or in the competitive service. Other employees shall be appointed

subject to provisions of law applicable to appointments in the competitive service, and shall be paid in accordance with the provisions applicable to such service.".

SEC. 5606. PENALTIES.

Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) is amended by striking "no more than $1,000" and by inserting "no more than $10,000".

SEC. 5607. MANAGEMENT OF LANDS AND PUBLIC PARTICIPATION.

(a) IN GENERAL.—The last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)) is amended to read as follows:

"In managing the public lands, the Secretary, by regulation or otherwise, shall take any action necessary to prevent unnecessary degradation of such lands, to minimize adverse environmental impacts on such lands and their resources resulting from use, occupancy, or development of such lands, and to prevent impairment or derogation of the resources and values of conservation system units.".

(b) ADVISORY COUNCILS.—Section 309(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739(b)) is amended—

(1) by striking the period at the end of the first sentence and inserting in lieu thereof ", including the protection of environmental quality, the management and enhancement of fish and wildlife populations and habitat, and outdoor recreation."; and

(2) by striking the period at the end of the fourth sentence and inserting in lieu thereof ", who shall provide an opportunity for interested members of the public to suggest persons for appointment.".

(c) ACEC REGULATIONS.—Section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740) is amended by designating the existing provisions thereof as subsection (a) and adding the following new subsection:

"(b) In promulgating rules and regulations pursuant to this section with respect to the public lands, the Secretary shall provide for appropriate management of areas of critical environmental concern in order to fulfill such of the purposes specified in section 103(a) for which particular areas of critical environmental concern are designated, and shall provide an opportunity for members of the public to propose specific areas for consideration for designation as areas of critical environmental concern pursuant to section 201 of this Act.".

SEC. 5608. FUTURE REAUTHORIZATIONS.

(a) PROCEDURE.—Section 318(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748(b)) is amended by striking "May 15, 1977, and not later than May 15 of each second even-numbered year thereafter" and inserting in lieu thereof "January 1, 1991 and January 1 of each second odd-numbered year thereafter".

(b) RESTRICTION.—Section 318(d) of the Federal Land Policy and Management Act of 1976 is amended by adding at the end thereof a new sentence, as follows: "Notwithstanding any other provision of law, funds appropriated for purposes of land acquisition pursuant to section 205 of this Act may not be expanded for any other purpose.".

SEC. 5609. EXEMPTION FROM STRICT LIABILITY.

Section 504(h) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(h)) is amended by adding at the end thereof the following new paragraph:

"(3) No regulation shall impose liability without fault with respect to a right-of-way granted, issued, or renewed under this Act to a nonprofit entity or an entity qualified for financing under the Rural Electrification Act of 1936, as amended, if such entity uses such right-of-way for the delivery of electricity to parties having an equity interest in such entity. However, the Secretary may condition the grant, issuance, or renewal of a right-of-way to such entity for such purpose on the provision by such entity of a bond or other appropriate security, pursuant to subsection (i) of this section.".

SEC. 5610. PROHIBITION OF SUBLEASING.

Section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752) is amended by adding at the end thereof the following new subsection:

"(i) PROHIBITION OF SUBLEASING.—(1) Subleasing is hereby prohibited.

"(2) For purposes of this subsection the following terms shall have the following meanings:

"(A) 'subleasing' means the grazing on public lands or on National Forest lands covered by a grazing permit of domestic livestock which are not both owned and controlled by the holder of the grazing permit.

"(B) 'grazing permit' means a permit or lease of the type described in subsection (a) of this section which has been issued by the Secretary concerned pursuant to applicable law.

"(3) The Secretary concerned shall require each holder of a grazing permit to annually file an affidavit that such holder owns and controls all livestock which such holder is knowingly allowing to graze on public lands or National Forest lands covered by such holder's grazing permit.

"(4) A grazing permit shall terminate 30 days after the effective date of any lease, conveyance, transfer, or other action which has the effect of removing the privately owned property or part thereof with respect to which a grazing permit was issued from the control of the holder of such permit, and no grazing pursuant to such permit shall be permitted after such termination.

"(5) Any holder of a grazing permit who knowingly allows subleasing to occur on public lands or National Forest lands covered by such permit shall forfeit to the United States the dollar equivalent of any value in excess of the grazing fee paid or payable to the United States with respect to such permit, shall be disqualified from further exercise of any rights or privileges conferred by that permit or any other such permit, and shall be subject to the penalties specified in section 303 of this Act.

"(6) Any person other than the holder of a grazing permit who knowingly engages in subleasing shall be subject to the penalties specified in section 303 of this Act.".

TITLE VI—COMMITTEE ON THE JUDICIARY

SEC. 601. PATENT AND TRADEMARK OFFICE USER FEES.

(a) SURCHARGES.—There shall be a surcharge, during fiscal years 1991 through 1995, of 56 percent, rounded by standard arithematic rules, on all fees authorized by subsections (a) and (b) of section 41 of title 35, United States Code.

(b) USE OF FEES AND SURCHARGES.— Notwithstanding section 3302 of title 31, United States Code, beginning in fiscal year 1991, all fees and surcharges collected by the Patent and Trademark Office—

(1) shall be credited to the "Salaries and Expenses" account of the Patent and Trademark Office,

(2) shall be available to the Patent and Trademark Office without appropriation, for all authorized activities and operations of the office, including all direct and indirect costs of services provided by the office, and

(3) shall remain available until expended.

(c) REVISIONS.—In fiscal years 1992 through 1995, surcharges established under subsection (a) may be revised periodically by the Commissioner of Patents and Trademarks, subject to the provisions of section 553 of title 5, United States Code, in order to ensure that the following amounts, but not more than the following amounts, of patent and trademark user fees are collected:

(1) $91,000,000 in fiscal year 1991.
(2) $95,000,000 in fiscal year 1992.
(3) $99,000,000 in fiscal year 1993.
(4) $103,000,000 in fiscal year 1994.
(5) $107,000,000 in fiscal year 1995.

(d) REPEAL.—Section 105(a) of Public Law 100-703 (102 Stat. 4675) is repealed.

(e) REPORT ON FEES.—The Commissioner of Patents and Trademarks shall study the structure of all fees collected by the Patent and Trademark Office and, not later than May 1, 1991, shall submit to the Congress a report on all fees to be collected by the office in fiscal years 1992 through 1995. The report shall include a proposed schedule of fees that would distribute the surcharges provided by subsection (a) among all fees collected by the office, and recommendations for any statutory changes that may be necessary to implement the proposals contained in the report.

SEC. 602. FEDERAL AGENCY STATUS.

For the purposes of Federal law, the Patent and Trademark Office shall be considered a Federal agency. In particular, the Patent and Trademark Office shall be subject to all Federal laws pertaining to the procurement of goods and services that would apply to a Federal agency using appropriated funds, including the Federal Property and Administrative Services Act of 1949 and the Office of Federal Procurement Policy Act.

SEC. 603. EFFECT ON OTHER LAW.

Except for section 601(d), nothing in this title affects the provisions of Public Law 100-703 (102 Stat. 4674 and following).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect upon the date of the enactment of this Act and shall apply to—

(1) all educational benefits provided on or after such date of enactment, pursuant to such amendment; and

(2) all educational benefits of the type authorized by such amendment that were provided by the Commissioner of Patents and Trademarks on or after January 1, 1988.

SEC. 604. EFFECT ON OTHER LAW.

Except for section 601(d), nothing in this title affects the provisions of Public Law 100-703 (102 Stat. 4674 and following).

TITLE VII—MERCHANT MARINE AND FISHERIES COMMITTEE PROVISIONS

Subtitle A—Miscellaneous

SEC. 7101. AMOUNT OF TONNAGE CHARGES.

(a) INCREASE IN CHARGES.—Section 4219 of the Revised Statutes of the United States (46 App. U.S.C. 121) is amended in the second paragraph—

(1) by striking "2 cents per ton, not to exceed in the aggregate 10 cents per ton in any 1 year," and inserting "27 cents per ton, not to exceed in the aggregate $1.35 per ton in any 1 year,"; and

(2) by striking "6 cents per ton, not to exceed 30 cents per ton per annum," and inserting "81 cents per ton, not to exceed $4.05 per ton per annum,".

(b) TREATMENT OF INCREASED CHARGES.—Increased tonnage charges collected as a result of the amendments made by subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

SEC. 7102. COAST GUARD USER FEES.

(a) REPEAL OF PROHIBITION.—Section 2110 of title 46, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The analysis for chapter 21 of title 46, United States Code, is amended by striking the item relating to section 2110.

SEC. 7103. ENVIRONMENTAL PROTECTION AGENCY USER FEES.

(a) ESTABLISHMENT AND COLLECTION OF FEES.—The Administrator of the Environmental Protection Agency shall establish and collect fees for services and things of value provided by the Environmental Protection Agency with respect to—

(1) issuing permits under section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342);

(2) issuing registrations under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a);

(3) reviewing notifications under section 5, and operating a radon proficiency program under section 305, of the Toxic Substances Control Act (15 U.S.C. 2604, 2665);

(4) issuing vehicle and engine certificates of conforming under section 206 of the Clean Air Act (42 U.S.C. 7525); and

(5) testing fuel economy under section 503 and 506 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003, 2006).

(b) AMOUNT OF FEES.—Fees established and collected by the Administrator under this section shall be in such amounts as are necessary to collect not less than—

(1) $22,000,000 in fiscal year 1991; and

(2) $33,000,000 in each of fiscal years 1992, 1993, 1994, and 1995.

(c) FUNCTIONS, POWERS, RESPONSIBILITIES, AND LIABILITY OF U.S. NOT AFFECTED.—The establishment, assessment, and collection of fees under this section—

(1) shall not alter or expand the functions, powers, responsibilities, and liability of the United States for the performance of services for which such fees are established; and

(2) does not constitute an expressed or implied promise by the United States to provide any service or perform any activity in a particular manner, or at a particular time or place.

(d) RECEIPTS CREDITED TO ENVIRONMENTAL PROTECTION AGENCY.—Amounts collected by the Administrator in the form of fees under this section shall be deposited in the general fund of the Treasury as proprietary receipts ascribed to Environmental Protection Agency activities.

SEC. 7104. AUTHORITY TO ACQUIRE REAL PROPERTY AND IMPROVEMENTS IN HAMPTON ROADS, VIRGINIA.

(a) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere is authorized to acquire, by exchange or lease-purchase or both, real property and improvements thereto in the area of Newport News-Norfolk, Virginia, for the purpose of consolidating facilities of the National Oceanic and Atmospheric Administration.

(b) CONDITIONS.—The authority of the Under Secretary to acquire real property or improvements under subsection (a) shall be subject to the following conditions:

(1) All actions taken by the Under Secretary to acquire such property or improvements must be in the best interests of the United States.

(2) In any case in which such acquisition is by lease-purchase—

(A) the term of the lease may not exceed 30 years;

(B) title to such property or improvements will be transferred to the United States upon expiration of such term.

(c) OBLIGATIONS OF FUNDS.—Obligations of funds to carry out a lease-purchase acquisition under subsection (a)—

(1) shall be without regard to section 1341(a)(1)(B) of title 31, United States Code, and section 3733 of the Revised Statutes of the United States (41 U.S.C. 12); and

(2) shall be treated as budget authority and outlays in a fiscal year only to the extent that expenditures will be made to carry out such acquisition in the fiscal year.

SEC. 7105. VETERANS BENEFITS FOR MERCHANT MARINERS.

(a) SHORT TITLE.—This section may be cited as the "Merchant Mariners Fairness Act of 1990".

(b) SERVICE DEEMED TO BE ACTIVE MILITARY SERVICE.—

(1) IN GENERAL.—For purposes of section 401(a)(1)(A) of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note), the Secretary of Defense is deemed to have determined that qualified service of a member of the United States merchant marine, including a vessel crewmember of the United States Army Transport Service, who served the Armed Forces during World War II constituted active military service.

(2) DETERMINATION OF DISCHARGE STATUS.—(A) The Secretary of Defense shall issue an honorable discharge under section 401(a)(1)(B) of the GI Bill Improvement Act of 1977 to each member of the United States merchant marine whose qualified service warrants an honorable discharge.

(B) Such discharge shall be issued before the end of the one-year period beginning on the date of the enactment of this Act.

(3) QUALIFIED SERVICE DEFINED.—For purposes of this section, the term "qualified service" means service of a merchant mariner during the period beginning December 7, 1941, and ending December 31, 1946, performed while such mariner was—

(A) documented by any officer or employee of the United States authorized by law to do so; and

(B) a crewmember of any vessel which at the time of such service was—

(i) documented in the United States,

(ii) operated under the flag of the United States in waters other than inland waters of the United States; and

(iii) under contract or charter to, or property of, the Government of the United States.

(c) PROHIBITION OF RETROACTIVE BENEFITS.—Benefits shall not be paid to any person as a result of the enactment of this section for any period before the effective date of this section.

(d) PROCESSING FEE.—

(1) IN GENERAL.—The Secretary of the Department in which the Coast Guard is operating shall establish, assess, and collect a fee for processing applications for benefits for qualified service in the United States merchant marine.

(2) APPLICATION.—A fee established under this subsection shall apply to any application for a benefit (including for an increase in a benefit) for qualified service in the United States merchant marine, that is received after the date of the enactment of this Act by Secretary of the Department in which the Coast Guard is operating.

(3) AMOUNT.—The amount of a fee established under this subsection shall be $100.

SEC. 7106. RELINQUISHMENT OF RIGHTS AND INTERESTS OF UNITED STATES UNDER EASEMENT.

(a) RELINQUISHMENT OF EASEMENT.—Not later than 60 days after the date described in subsection (b), the Secretary of the Interior shall take such steps as may be necessary to relinquish all rights and interests of the United States under the easement described in subsection (d).

(b) STATE SUBMITTAL OF PERMIT.—The date referred to in subsection (a) is the date, prior to January 1, 2005, on which the Texas Water Commission or appropriate agency of the State of Texas submits to the Secretary of the Interior a copy of the permit issued for the impoundment of water upon the area of the easement described in subsection (d).

(c) STUDIES NOT PROHIBITED.—The easement described in subsection (d) shall not be considered to prohibit, and shall not be used as a basis for prohibiting, the Texas Water Commission and any other State agency authorized under the statutes of the State of Texas from having access to the easement for the purpose of conducting any feasibility or environmental studies necessary for making a determination required for issuing a permit described in subsection (b).

(d) EASEMENT DESCRIBED.—The easement referred to in subsections (a), (b), and (c) is the conservation easement affecting 3,802 acres of land, more or less, in Wood County, Texas, that was conveyed to the United States by the Little Sandy Hunting and Fishing Club (a nonprofit corporation of the State of Texas) and accepted by the Director of the United States Fish and Wildlife Service on December 18, 1986. The cancellation of this easement would result in substantial savings for the United States Fish and Wildlife Service.

Subtitle B—Coastal Zone Management

SEC. 7201. SHORT TITLE.

This subtitle may be cited as the "Coastal Zone Act Reauthorization Amendments of 1990".

SEC. 7202. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Coastal Zone Management Act of 1972 has not been subject to comprehensive review and amendment since 1980.

(2) The pressures of population growth are steadily increasing in the coastal zone, as illustrated by the fact that—

(A) over one-half of the people of the United States live and work within coastal counties which encompass less than 10 percent of the United States land mass;

(B) the population density of coastal counties is 5 times greater than noncoastal counties nationwide; and

(C) growth around sensitive coastal ecosystems will continue;

(3) population growth in the coastal zone manifests itself in various ways, including—

(A) increased pollution of coastal waters, particularly from nonpoint sources such as parking lots, roads, and farms;

(B) loss of wetlands and other vital habitat;

(C) diminishing opportunities for public access to shorelines; and

(D) heightened vulnerability of coastal communities to natural hazards and sea level rise; and

(4) because global warming may cause a substantial rise in sea level with serious adverse affects on the coastal zone, coastal States should be encouraged and assisted in planning for such occurrences.

(b) PURPOSES.—The purposes of this subtitle are to—

(1) establish the improvement of coastal resource protection as a priority national goal under the Coastal Zone Management Act of 1972;

(2) establish improved incentives for State and local action to achieve better coastal resource protection;

(3) revitalize the Federal coastal management program by establishing a mandate for Federal leadership and technical and financial assistance in support of improved coastal zone management at the regional, State, and local levels; and

(4) encourage voluntary participation by all eligible coastal States in programs established under title II of this Act, by setting a goal of 100 percent State participation by the end of fiscal year 1995.

SEC. 7203. REAUTHORIZATION OF COASTAL ZONE MANAGEMENT ACT OF 1972.

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451-1464) is amended to read as follows:

"TITLE III—MANAGEMENT OF THE COASTAL ZONE

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Coastal Zone Management Act'.

"SEC. 302. FINDINGS.

"The Congress finds the following:

"(1) It is in the national interest of the United States to manage, protect, and develop with proper environmental safeguards, the coastal zone.

"(2) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, historical, cultural, industrial, and esthetic resources of importance to the United States.

"(3) The increasing and competing demands upon the lands and waters of the coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living coastal resources, have resulted in severe degradation of coastal water quality, the decline of living coastal resources and wildlife, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

"(4) The coastal zone, and the fish, shellfish, other living coastal resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by human alteration.

"(5) Important ecological, cultural, historic, and esthetic values of the coastal zone which are essential to the well-being of all citizens of the United States must be protected.

"(6) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, Exclusive Economic Zone, and Outer Continental Shelf are damaging these areas and create the need for resolution of conflicts among competing uses and values in coastal and ocean waters.

"(7) Special natural and scenic characteristics of the coastal zone are being damaged by ill-planned development that threatens these values;

"(8) In view of competing demands and the urgent need to protect and give priority to maintaining natural systems in the coastal zone, present State and local capabilities to plan for and regulate land and water uses in these areas are inadequate.

"(9) The key to more effective protection of the land and water resources of the coastal zone is to encourage coastal States to exercise their full authority over the lands and waters in the coastal zone by assisting coastal States, in cooperation with the Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for managing land and water uses in the coastal zone, as well as uses which, although outside of the coastal zone, will affect natural resources, land uses, or water uses in the coastal zone.

"(10) Beneficial use of the land and water resources of the coastal zone requires consideration of activities which are of more than local significance.

"(11) Land use in the coastal zone, and the use of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitat, and efforts to control coastal water pollution from land use activities must be improved.

"(12) Expeditious and environmentally sound development of offshore energy resources is best achieved through coordination of that development with State coastal zone management programs.

"(13) The attainment by the United States of a greater degree of energy self-sufficiency will be advanced by providing Federal financial assistance to meet State and local needs resulting from energy activity in or affecting the coastal zone.

"(14) Implementation of the public trust doctrine through federally-approved State coastal zone management plans will ensure that coastal States exercise their full authority over the lands, waters, and resources within their coastal zones fully and in accordance with that doctrine.

"SEC. 303. DECLARATION OF POLICY.

"The Congress declares that it is the policy of the United States—

"(1) to preserve, protect, develop with proper environmental safeguards, and where possible restore or enhance, the resources of the coastal zone for this and succeeding generations;

"(2) to encourage and assist coastal States to exercise effectively their responsibilities in the coastal zone through the development, implementation and continual improvement of management programs to achieve wise use of the air, land, water, mineral, and living resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values and to needs for economic development;

"(3) that the management programs approved under section 306 shall include provisions for—

"(A) protecting natural resources, including wetlands, floodplains, estuaries, beaches, dunes, maritime forests, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone;

"(B) managing coastal development to minimize—

"(i) the loss of life and property caused by improper development in flood-prone, storm surge, geologically hazardous, and erosion-prone areas; and in areas likely to be affected by sea level rise, land subsidence, and saltwater intrusion; and

"(ii) the destruction of natural protective features, such as beaches, dunes, wetlands, maritime forests, and barrier islands;

"(C) managing coastal development to protect and restore the quality of coastal waters and to prevent the impairment of existing uses of those waters;

"(D) giving priority to water-dependent uses adjacent to coastal waters over other uses;

"(E) orderly processes for—

"(i) siting major facilities related to national defense, energy, fisheries development, recreation, ports, and transportation; and

"(ii) locating new commercial and industrial development, to the maximum extent practicable, in or adjacent to areas where such development already exists;

"(F) public access to the coasts for recreation purposes;

"(G) assisting in the redevelopment of deteriorating urban waterfronts and ports, and preservation and restoration of historic, cultural, and esthetic coastal features;

"(H) coordinating and simplifying of procedures to ensure expedited governmental decisionmaking for the management of coastal resources;

"(I) continued consultation and coordination with, and the giving of adequate consideration to, the views of affected Federal agencies;

"(J) timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking;

"(K) assistance to support comprehensive planning, conservation, and management for living coastal resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies, and State water quality and fish and wildlife agencies;

"(L) where the Under Secretary considers appropriate, the study, development and implementation of management plans to address the adverse impacts of sea level rise and Great Lakes level rise on the coastal zone, including coastal drinking water supplies, coastal infrastructure, ports and harbors, energy facilities, coastal wetlands and other critical coastal habitat, housing, and storm surge protection; and

"(M) an inventory and designation of areas that contain one or more coastal resources of national significance, including criteria and procedures for public nomination of such areas;

"(4) to encourage the preparation of special area management plans which provide for increased specificity in protecting—

"(A) significant natural resources;

"(B) reasonable water-dependent economic growth;

"(C) improved protection of life and property in hazardous areas, including specifically those areas likely to be affected by sea level rise; and

"(D) improved predictability in governmental decisionmaking; and

"(5) to encourage the participation and cooperation of the public, State and local governments, interstate and other regional agencies, and Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title.

"SEC. 304. DEFINITIONS.

"For the purposes of this title—

"(1) COASTAL RESOURCE OF NATIONAL SIGNIFICANCE.—The term 'coastal resource of national significance' means any area in the coastal zone which is determined by a coastal State to provide ecological, esthetic, recreational, historical, or natural storm protective values which are of greater than local significance.

"(2) COASTAL STATE.—The term 'coastal State' means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or any of the Great Lakes, and includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Trust Territory of the Pacific Islands.

"(3) COASTAL WATERS.—The term 'coastal waters' means—

"(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

"(B) in other areas, those waters adjacent to the shoreline of any coastal State, which contain a measurable quantity or percentage of sea water, including sounds, bays, lagoons, bayous, ponds, and estuaries.

The term includes wetlands adjacent to coastal waters.

"(4) COASTAL WETLANDS.—The term 'coastal wetlands' means wetlands within the coastal zone of any coastal State. The Under Secretary shall, not later than June 1, 1991, promulgate a rule in accordance with the procedures in section 553 of title 5, United States Code, defining the term 'wetlands'. In connection with the rulemaking required by this paragraph, the Under Secretary shall—

"(A) hold not less than 4 public hearings, including one in each of the Gulf of Mexico, Atlantic, Pacific, and Great Lakes coastal areas; and

"(B) consult with the heads of other Federal agencies to ensure that the definition of the term 'wetlands' established by the rule is, to the maximum extent possible, consistent with definitions of that term applied by other Federal agencies.

"(5) COASTAL ZONE.—The term 'coastal zone' means coastal waters (including lands therein and thereunder) and adjacent lands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The coastal zone extends, in Great Lakes waters, to the international boundary between the United States and Canada, and in other areas, seaward to the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749), the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 (48 U.S.C. 1681 note), or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705), as applicable. The coastal zone extends inland from the shoreline to the extent necessary to control lands, the uses of which have a direct and significant impact on coastal waters. The coastal zone does not include lands the use of which is by law subject solely to the discretion of, or which is held in trust by, the Federal Government or its officers or agents.

"(6) CRITICAL COASTAL AREA.—The term 'critical coastal area' means an area identified on the basis of geological, hydrological, and ecological factors and proximity to sensitive coastal waters, wetlands and habitats, to be an area for which there is a significant likelihood that any new or expanded land use will have an adverse effect on coastal waters, either directly or through cumulative or secondary effects, unless appropriate land use management measures are employed.

"(7) ENFORCEABLE POLICY.—The term 'enforceable policy' means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.

"(8) ESTUARINE AREA.—The term 'estuarine area' includes any part or all of an estuary, and any island, transitional area, or upland in, adjoining, or adjacent to that estuary.

"(9) ESTUARY.—The term 'estuary' means a semienclosed body of coastal water, connected to the ocean, where sea water is mixed with and measurably diluted by fresh water. The term includes estuary-type areas of the Great Lakes.

"(10) LAND USE.—The term 'land use' means a use, activity, or project conducted on lands within the coastal zone.

"(11) LOCAL GOVERNMENT.—The term 'local government' means any political subdivision of, or any special entity created by, any coastal State, which (in whole or part) is located in, or has authority over, such State's coastal zone and which—

"(A) has authority to levy taxes, or to establish and collect user fees; or

"(B) provides any public facility or public service which is financed in whole or part by taxes or user fees.

The term includes any school district, fire district, transportation authority, and any other special purpose district or authority.

"(12) MANAGEMENT PROGRAM.—The term 'management program' means a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by a coastal State in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of natural resources, lands, and waters in the coastal zone.

"(13) PERSON.—The term 'person' means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any State; the Federal Government; any State, regional, or local government; and any entity of any Federal, State, regional, or local government.

"(14) SEA LEVEL RISE.—The term 'sea level rise' means an increase in the level of the sea relative to the level of adjacent land.

"(15) SPECIAL AREA MANAGEMENT PLAN.—The term 'special area management plan' means a comprehensive plan providing for natural resource protection and reasonable water-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of natural resources, lands, and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone.

"(16) UNDER SECRETARY.—The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.

"(17) WATER-DEPENDENT USE.—The term 'water-dependent use' means a use, activity, or project that requires direct physical siting on, or proximity or access to, an adjacent body of coastal water. The term includes industrial or commercial activities related to port and harbor operation and commercial fishing, and activities related to water recreation. A use, activity, or project shall not be considered to be a water-dependent use solely because of economic advantages that may be gained from a coastal waterfront location.

"(18) WATER USE.—The term 'water use' means a use, activity, or project conducted in or on waters within the coastal zone.

"SEC. 305. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

"(a) DEVELOPMENT GRANTS.—In fiscal years 1991, 1992, and 1993, the Under Secretary may make a grant annually to any coastal State without an approved program from sums available to the Under Secretary under section 309, if the coastal State demonstrates to the satisfaction of the Under Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed $200,000 in any fiscal year, and shall require State matching funds according to a 4-to-one ratio of Federal-to-State contributions. After an initial grant is made to a coastal State pursuant to this subsection, no subsequent grant shall be made to that coastal State pursuant to this subsection unless the Under Secretary finds that the coastal State is satisfactorily developing its management program. No coastal State is eligible to receive more than 2 grants pursuant to this subsection.

"(b) SUBMITTAL OF PROGRAM.—Any coastal State which has completed the development of its management program shall submit such program to the Under Secretary for review and approval pursuant to section 306.

"SEC. 306. ADMINISTRATIVE GRANTS.

"(a) GENERAL.—The Under Secretary may make grants to any coastal State for the purpose of administering that State's management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

"(1) EXISTING PROGRAMS.—For those States for which programs were approved prior to enactment of the Coastal Zone Act Reauthorization Amendments of 1990, one to one for any fiscal year.

"(2) DEVELOPING PROGRAMS.—For States for which programs are approved after the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, 4 to one for the first fiscal year, 2.3 to one for the second fiscal year, 1.5 to one for the third fiscal year, and one to one for each fiscal year thereafter.

"(b) GRANT CONDITIONS.—The Under Secretary may make a grant to a coastal State under subsection (a) only if the Under Secretary finds that the management program of the coastal State meets all applicable requirements of this title and has been approved in accordance with subsection (d).

"(c) GRANT ALLOCATION.—Grants under this section shall be allocated to coastal States with approved programs based on rules and regulations promulgated by the Under Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Under Secretary shall establish, after consulting with the coastal States, maximum and minimum grants for any fiscal year to promote equity between coastal States and effective coastal management.

"(d) PROGRAM APPROVAL REQUIREMENTS.—Before approving a management program submitted by a coastal State, the Under Secretary shall find the following:

"(1) IN GENERAL.—The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Under Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303.

"(2) REQUIRED PROGRAM ELEMENTS.—The management program includes each of the following:

"(A) An identification of the boundaries of the coastal zone subject to the management program.

"(B) A definition of permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

"(C) An inventory and designation of areas of particular concern within the coastal zone.

"(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

"(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

"(F) A description of the organizational structure proposed to implement the man-

agement program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process.

"(G) A definition of the term 'beach' and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

"(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating and managing the impacts from such facilities.

"(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.

"(3) REQUIRED PROCEDURES.—The State has—

"(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

"(i) existing on January 1 of the year in which the State's management program is submitted to the Under Secretary; and

"(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

"(B) established an effective mechanism for continuing consultation and coordination among the management agency designated pursuant to paragraph (6), local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this title; except that the Under Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

"(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

"(ii) within the 30-day period commencing on the date of receipt of the notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

"(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

"(I) shall consider the comments;

"(II) may, in its discretion, hold a public hearing on the comments; and

"(III) may not take any action within the 30-day period to implement the management program decision.

"(4) PUBLIC HEARINGS.—The State has held public hearings in the development of the management program.

"(5) GUBERNATORIAL APPROVAL.—The management program and any amendment, modification, or other change thereto have been reviewed and approved by the Governor of the State.

"(6) DESIGNATION OF LEAD AGENCY.—The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

"(7) ORGANIZATION.—The State is organized to implement the management program.

"(8) NATIONAL INTEREST.—The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Under Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

"(9) AREA DESIGNATIONS.—The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

"(10) AUTHORITY TO IMPLEMENT PROGRAM.—The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(A) to administer land use and water use regulations to control development to ensure compliance with the management program, and to resolve conflicts among competing uses; and

"(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

"(11) CONTROL OF USES.—The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

"(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

"(B) Direct State land and water use planning and regulation.

"(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(12) USES OF REGIONAL BENEFIT.—The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

"(13) PROTECTION OF NATIONALLY SIGNIFICANT RESOURCES.—The management program provides for—

"(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

"(B) specific and enforceable standards to protect such resources.

"(14) PUBLIC PARTICIPATION.—The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

"(15) INTRASTATE COMPLIANCE.—The management program provides a mechanism to ensure that all State agencies will adhere to the program.

"(e) PROGRAM AMENDMENTS AND MODIFICATIONS.—

"(1) IN GENERAL.—A coastal State may amend, modify, or otherwise change its approved management program as provided in this subsection.

"(2) NOTIFICATION REQUIRED.—A coastal State shall promptly notify the Under Secretary of any proposed amendment, modification, or change in its management program and submit it to the Under Secretary for his or her approval. The Under Secretary may suspend all or part of any grant made to the State under this section pending submission of the proposed amendment, modification, or change by the State.

"(3) REVIEW AND APPROVAL BY UNDER SECRETARY.—(A) Within 30 days after the date the Under Secretary receives any amendment, modification, or other change proposed by a coastal State to its management program, the Under Secretary shall approve or disapprove the proposal, unless the Under Secretary finds it is necessary to extend the period for reviewing the proposal. Upon such a finding, the Under Secretary may extend the period for review to not later than 120 days after the date the Under Secretary received the proposal. The Under Secretary may further extend the period for review only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) If the Under Secretary does not approve or disapprove an amendment, modification, or other change proposed by a coastal State to its management program within 120 days after the date the proposal is received by the Under Secretary, the proposal is deemed to be approved by the Under Secretary unless the Under Secretary has extended the period for review for purposes of meeting the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) APPROVAL REQUIRED FOR IMPLEMENTATION.—(A) Except as provided in subparagraph (B), a coastal State may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Under Secretary under this subsection.

"(B) The Under Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which is subject to preliminary approval under this paragraph shall not be considered an enforceable policy for purposes of section 307(m).

"SEC. 306A. RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

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

"(1) the term 'eligible coastal State' means a coastal State that for any fiscal year for which a grant is applied for under this section—

"(A) has a management program approved under section 306; and

"(B) in the judgment of the Under Secretary, is making continual and satisfactory progress in improving its approved coastal zone management program in compliance with section 310; and

"(2) the term 'urban waterfront and port' means any developed area that is densely populated and is being used for, or has been used for, urban residential, recreational, commercial, shipping, or industrial purpose.

"(b) GRANTS AND RESOURCE IMPROVEMENTS.—The Under Secretary may make grants to any eligible coastal State to assist that State in meeting one or more of the following objectives:

"(1) PRESERVATION OR RESTORATION.—Preserving or restoring specific areas of the coastal zone—

"(A) that are designated under the management program procedures required by section 306(d)(9) because of their conservation, recreational, ecological, historic, or esthetic value;

"(B) under a comprehensive restoration program adopted under section 310(a)(1);

"(C) that contain one or more coastal resources of national significance; or

"(D) for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reefs and bottom lands.

"(2) REDEVELOPMENT.—Redeveloping deteriorating and underutilized urban waterfronts and ports that are designated under section 306(d)(2)(C) in the State's management program as areas of particular concern.

"(3) PUBLIC ACCESS.—Providing access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 306(d)(2)(G).

"(c) GRANT RESTRICTIONS.—

"(1) TERMS AND CONDITIONS.—Each grant under this section shall be subject to any terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

"(2) ELIGIBLE USES.—Grants under this section may be used for—

"(A) acquiring fee simple and other interests in land;

"(B) low-cost construction projects determined by the Under Secretary to be consistent with the purposes of this section, including construction of paths, walkways, fences, parks, and oyster beds and the rehabilitation of historic buildings and structures, except that not more than 50 percent of any grant under this section may be used for such construction projects;

"(C) in the case of grants for objectives described in subsection (b)(2)—

"(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity;

"(ii) the establishment of shoreline stabilization measures, including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use;

"(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas, except that activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in subparagraph (B);

"(D) engineering designs, specifications, and other appropriate reports; and

"(E) educational, interpretive, and management costs and such other related costs as the Under Secretary determines to be consistent with the purposes of this section.

"(d) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—The Under Secretary shall require a coastal State to match a grant under this section in a ratio of at least one to one of Federal to State contribution.

"(2) USE FOR OTHER MATCHING REQUIREMENTS.—A coastal State may use a grant under this section to pay the State's share of costs required under any other Federal program that is consistent with the purposes of this section.

"SEC. 306B. MANAGING LAND USES THAT AFFECT COASTAL WATERS.

"(a) IN GENERAL.—

"(1) PROGRAM DEVELOPMENT.—Not later than 3 years after the effective date of this section, the management agency designated pursuant to section 306(d)(6) by each coastal State for which a management program has been approved pursuant to section 306 (hereinafter in this section referred to as the 'coastal management agency'), shall prepare and submit to the Under Secretary a Coastal Water Quality Protection Program (hereinafter in this section referred to as the 'program') for approval pursuant to this section. The purpose of the program shall be to develop and implement coastal land use management measures for nonpoint source pollution, working in close conjunction with other State and local authorities. For purposes of this section, the term "land use" shall include uses of adjacent water areas as well.

"(2) PROGRAM COORDINATION.—(A) In developing and carrying out the program, the coastal management agency shall coordinate closely with State and local water quality plans and programs developed pursuant to sections 208, 303, 319, and 320 of the Federal Water Pollution Control Act (33 U.S.C. 1288, 1313, 1329, and 1330).

"(B) The program shall serve as an update and expansion of the State nonpoint source management program developed under section 319 of the Federal Water Pollution Control Act, as the program under that section relates to land and water uses affecting the coastal zone. The program shall be prepared in close consultation with the State authority responsible for implementation of the program prepared under section 319 of that Act, in order to assure full coordination in each participating State.

"(b) PROGRAM CONTENTS.—The Under Secretary in consultation with the Administrator of the Environmental Protection Agency, shall approve a program under this section if it provides for the following:

"(1) IDENTIFYING LAND USES.—The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

"(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes;

"(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources; or

"(C) outstanding resource waters designated pursuant to paragraph (4).

"(2) IDENTIFYING CRITICAL COASTAL AREAS.—The identification of, and a continuing process for identifying, critical coastal areas within which any new land uses or substantial expansion of existing land uses will be subject to land use management measures that are determined necessary by the coastal management agency, in cooperation with the State water quality authorities and other State or local authorities, as appropriate, to protect and restore coastal water quality and designated uses.

"(3) COASTAL LAND USE MANAGEMENT MEASURES.—(A) The implementation and continuing revision from time to time of land use management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that the coastal management authority, working in conjunction with the State water pollution control agency and other State and local authorities, determines are necessary to achieve applicable water quality standards and protect designated uses.

"(B) Coastal land use management measures under this paragraph may include, among other measures, the use of—

"(i) buffer strips;

"(ii) setbacks;

"(iii) density restrictions;

"(iv) techniques for identifying and protecting critical coastal areas and habitats;

"(v) soil erosion and sedimentation control; and

"(vi) siting and design criteria for water uses, including marinas.

"(4) OUTSTANDING RESOURCE WATERS.—The continuing identification and designation (after periodic nominations, notice, and public comments) of coastal waters which, because of their special ecological, recreational, or esthetic characteristics, are determined by the State to constitute outstanding resource waters. Such designations may include, but not be limited to, waters identified by the State water pollution control agency as being of special biological significance pursuant to its water quality planning processes. Outstanding resource waters may include—

"(A) areas adjacent to national or State parks or wildlife refuges;

"(B) national estuarine research reserves and national marine sanctuaries;

"(C) waters adjacent to units of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.); or

"(D) shellfish harvesting areas or fish spawning areas of particular State or local importance.

"(5) TECHNICAL ASSISTANCE.—The provision of technical and financial assistance to local governments and the public for implementing the measures referred to in paragraph (3), including assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such measures, training, financial incentives, demonstration projects, and other innovations to protect coastal water quality and designated uses.

"(6) PUBLIC PARTICIPATION.—Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

"(7) ADMINISTRATIVE COORDINATION.—The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, interagency certifications, memoranda of agreement, and other mechanisms.

"(8) STATE COASTAL ZONE BOUNDARY MODIFICATION.—Modification of the boundaries of the State coastal zone as the coastal management agency determines is necessary to manage the land uses identified pursuant to paragraph (1) and to implement, as may be required, the recommendations made pursuant to subsection (e). If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

"(c) PROGRAM SUBMISSION AND APPROVAL.—

"(1) PROCEDURES.—The submission and approval of a proposed program shall be governed by the procedures established by section 306(e).

"(2) ELIGIBILITY FOR AND WITHDRAWING ASSISTANCE.—If the Under Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the State shall not be eligible for any funds under this section or section 603 of the Coastal Defense Initiative of 1990, and the Under Secretary shall withdraw a portion of grants otherwise available to the State under section 306 of this Act as follows:

"(A) 10 percent after 3 years after the date of the enactment of this section.

"(B) 15 percent after 4 years after the date of the enactment of this section.

"(C) 20 percent after 5 years after the date of the enactment of this section.

"(D) 30 percent after 6 years after the date of the enactment of this section and thereafter.

The Under Secretary shall make amounts withdrawn under this paragraph available

to coastal States having programs approved under this section.

"(d) TECHNICAL ASSISTANCE.—The Under Secretary and the Administrator of the Environmental Protection Agency shall provide technical assistance to coastal States and local governments in developing and implementing programs under this section. Such assistance shall include—

"(1) methods for assessing water quality impacts associated with coastal land uses;

"(2) methods for assessing the cumulative water quality effects of coastal development;

"(3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal States and local governments in identifying, developing, and implementing pollution control measures; and

"(4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

"(e) INLAND BOUNDARIES.—

"(1) REVIEW.—The Under Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within 18 months after the date of enactment of this title, review the inland coastal zone boundary of each coastal State program which has been approved or is proposed for approval under section 306 and evaluate whether the State's coastal zone boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

"(2) RECOMMENDATION.—If the Under Secretary finds that modifications to the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Under Secretary shall recommend appropriate modifications in writing to the affected State.

"(f) FINANCIAL ASSISTANCE.—With sums appropriated pursuant to section 318(a)(2), the Under Secretary shall provide grants to each coastal State to assist in fulfilling the requirements of this section if the coastal State matches any such grant according to a 4 to 1 ratio of Federal to State contribution. Funds available for implementing this section shall be allocated according to the regulations issued under section 306(c), except that the Under Secretary may use not more than 30 percent of any such funds to provide grants to assist those States which the Under Secretary finds are making exemplary progress in complying with the requirements of this section.

"(g) LONG ISLAND SOUND CONSERVANCY DEMONSTRATION.—Notwithstanding any other provision of law and within one year after the effective date of this subsection, the Under Secretary shall establish an office, to be known as the Long Island Sound Conservancy, in the immediate vicinity of Long Island Sound. The office shall provide assistance to the States of Connecticut and New York in developing and implementing the plan described in subsection (a) and in demonstrating the most effective means of coordinating the implementation of coastal zone management and water quality programs. The Conservancy shall be eligible for grants under subsection (f) without regard to the matching requirement of that subsection.

"SEC. 307. COORDINATION AND COOPERATION.

"(a) GENERAL.—In carrying out the functions and responsibilities of this title, the Under Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate these activities with other interested Federal agencies.

"(b) FEDERAL AGENCY CONSULTATION.—The Under Secretary shall not approve the management program submitted by a State pursuant to section 306, or any amendment, modification, or other change to the management program, unless the views of Federal agencies principally affected by such program or amendments have been adequately considered.

"(c) FEDERAL AGENCY ACTIVITIES.—

"(1) IN GENERAL.—Each Federal agency activity, in or outside of the coastal zone, affecting any natural resources, land uses, or water uses in the coastal zone, shall be carried out in a manner which is, to the maximum extent practicable, consistent with approved State management programs.

"(2) PRESIDENTIAL EXEMPTION.—After any final judgment, decree, or order of any Federal court that is appealable under section 1291 or 1292 of title 28, United States Code, or under any other applicable provision of Federal law, that a specific Federal agency activity is not in compliance with subsection (c)(1), and certification by the Under Secretary that mediation under subsection (h) is not likely to result in such compliance, the President may, upon written request from the Under Secretary, exempt from compliance those elements of the Federal agency activity that are found by the Federal court to be inconsistent with an approved State program, if the President determines that the activity is in the paramount interest of the United States. No such exemption shall be granted due to a lack of appropriations unless the President has specifically requested such appropriations as part of the budgetary process, and the Congress has failed to make available the requested appropriations.

"(3) CONSISTENCY DETERMINATION REQUIRED.—Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 306(d)(6) at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

"(d) FEDERALLY LICENSED OR PERMITTED ACTIVITIES.—

"(1) IN GENERAL.—Any applicant for a required Federal license or permit to conduct an activity in or outside the coastal zone, affecting any natural resources, land uses, or water uses in the coastal zone of a State, shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the State's approved program and that the activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the State or its designated agency a copy of the certification, with all necessary information and data, and with any fee which may be required pursuant to subsection (i). Each coastal State shall establish procedures for public notice in the case of all certifications and, to the extent it deems appropriate, procedures for public hearings. At the earliest practicable time, the State or its designated agency shall notify the Federal agency concerned that the State concurs with or objects to the applicant's certification. If the State or its designated agency fails to furnish the required notification within 6 months after receipt of its copy of the applicant's certification, the State's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the State or its designated agency has concurred with the applicant's certification or until, by the State's failure to act, the concurrence is conclusively presumed, unless the Under Secretary, on his or her own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the State, that the activity is consistent with (A) the requirements of this title, and (B) the findings and policies of this title or is otherwise necessary in the interest of national security.

"(2) OUTER CONTINENTAL SHELF EXPLORATION, DEVELOPMENT, OR PRODUCTION.—Any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any natural resources, land uses, or water uses in the coastal zone of a State, attach to such plan a certification that each activity which is described in detail in such plan complies with such State's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such State or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and with any fee which may be required pursuant to subsection (i), and until—

"(A) the State or its designated agency, in accordance with the procedures required to be established by the State pursuant to paragraph (1), concurs with the certification and notifies the Under Secretary and the Secretary of the Interior of the concurrence;

"(B) concurrence by the State with such certification is conclusively presumed as provided for in paragraph (1). If the State fails to concur with or objects to the certification within 3 months after receipt of its copy of the certification and supporting information, the State shall provide the Under Secretary, the appropriate Federal agency, and the person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if the statement is not so provided, concurrence by such State with the certification shall be conclusively presumed; or

"(C) the Under Secretary finds, pursuant to paragraph (1), that each activity which is described in detail in such plan is consistent with (i) the requirements of this title, and (ii) the findings and policies of this title or is otherwise necessary in the interest of national security.

If a State concurs or is conclusively presumed to concur, or if the Under Secretary makes such a finding, the provisions of paragraph (1) do not apply to the person, the State, and any Federal license or permit which is required to conduct any activity affecting natural resources, land uses, or water uses in the coastal zone of the State which is described in detail in the plan to which the concurrence or finding applies. If the State objects to the certification and if the Under Secretary fails to make a finding under subparagraph (C) or if the person fails substantially to comply with the plan as submitted, the person shall submit an amendment to the plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under paragraph (1) is 3 months.

"(e) FEDERAL ASSISTANCE PROGRAMS.—State and local governments submitting applications for Federal assistance under other Federal programs, for activities in or outside the coastal zone affecting any natural resources, land uses, or water uses in the coastal zone, shall include the views of the agency designated pursuant to section 306(d)(6) as to the relationship of the activities to the approved management program. The applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not provide assistance for any activity that is inconsistent with a coastal State's management program, unless the Under Secretary, on his or her own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the State, that the activity is consistent with the findings and policies of this title or is (1) the requirements of this title, and (2) otherwise necessary in the interest of national security.

"(f) RELATIONSHIP TO OTHER FEDERAL LAWS.—Nothing in this title shall be construed—

"(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of 2 or more States or of 2 or more States and the Federal Government; nor to limit the authority of the Congress to authorize and fund projects;

"(2) as superseding, modifying, or repealing any laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada; the Permanent Engineering Board; the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961; or the International Boundary and Water Commission, United States and Mexico.

"(g) INCORPORATION OF AIR AND WATER STANDARDS.—Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Clean Air Act (42 U.S.C. 7401 et seq.), or (2) established by the Federal Government or by any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

"(h) MEDIATION.—In case of serious disagreement between any Federal agency and a coastal State or between 2 or more States—

"(1) in the development or the initial implementation of a management program under section 305; or

"(2) in the administration of a management program approved under section 306;

the Under Secretary shall seek to mediate the disagreement.

"(i) STATE FEE.—Each coastal State may establish, collect, and expend, without regard to any other requirement of this title, a fee to recover the reasonable costs of administering subsection (d). Such fee may recover the full costs of administration, including the reasonable costs of required research, monitoring, and enforcement.

"(j) FEDERAL FEE.—With respect to appeals under subsection (d) which are submitted after the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, the Under Secretary shall collect an application fee of not less than $200 for minor appeals and not less than $500 for major appeals. The Under Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (d).

"(k) WAIVING RIGHT TO APPEAL.—An applicant may waive the right to an appeal pursuant to subsection (d)(1)(B), (d)(2)(C)(i) or (e)(2) if written notification of the waiver is received by the coastal State and the Under Secretary within 60 days after the date on which the coastal State objected to the applicant's certification under that subsection.

"(l) RESTRICTION OF STATE AUTHORITY.—A coastal State may not exercise the requirements of subsection (c), (d), or (e)—

"(1) unless the coastal State's management program has been approved pursuant to section 306; or

"(2) if approval of the coastal State's management program has been withdrawn pursuant to section 312(d).

"(m) CONSISTENCY WITH ENFORCEABLE POLICIES REQUIRED.—In complying with the provisions of subsections (c), (d), and (e), activities of Federal agencies and applicants shall be carried out consistent with the enforceable policies of the State management program. Federal agencies shall give adequate consideration to program provisions which are in the nature of recommendations.

"SEC. 306. COASTAL ENERGY IMPACT PROGRAM.

"(a) IN GENERAL.—Not later than January 1, 1993, the Under Secretary shall recommend to the Congress a coastal energy impact program. These recommendations shall include provision of financial and technical assistance to meet the needs of coastal States and local governments resulting from energy facilities and related activities affecting natural resources, land uses, or water uses in the coastal zone. The program shall identify the major energy activities which are affecting natural resources, land uses, or water uses in the coastal zone and the major obstacles, if any, to effective management of such activities under this title.

"(b) OUTER CONTINENTAL SHELF STATE PARTICIPATION.—

"(1) IN GENERAL.—Beginning in fiscal year 1991, the Under Secretary shall implement a program to assist coastal States in fulfilling their responsibilities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

"(2) PARTICIPATION GRANTS.—The Under Secretary shall make grants under this paragraph to any coastal State which the Under Secretary finds is likely to be affected by Outer Continental Shelf energy activities, if the State matches the grant according to a 4 to 1 ratio of Federal to State contribution. The grants shall be used to assist the State in carrying out its responsibilities under the Outer Continental Shelf Lands Act.

"(c) LOAN REPAYMENT OBLIGATIONS UNAFFECTED.—The obligations of any coastal State or unit of general purpose local government to repay loans made pursuant to section 306(d)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(d)(1)), as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, and any repayment schedule established pursuant to that Act, are not altered by any provision of this title. Such loans shall be repaid under authority of this subsection and the Under Secretary may issue regulations governing such repayment. If the Under Secretary finds that any coastal State or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Under Secretary shall, after review of the information submitted by such State or unit take any of the following actions:

"(1) Modify the terms and conditions of such loan.

"(2) Refinance the loan.

"(3) Recommend to the Congress that legislation be enacted to forgive the loan.

"(d) OFFSETTING COLLECTIONS.—Loan repayments made pursuant to subsection (c) shall be retained by the Under Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under section 309.

"SEC. 309. COASTAL ZONE MANAGEMENT FUND.

"(a) ESTABLISHMENT.—The Under Secretary shall establish and maintain a fund, to be known as the 'Coastal Zone Management Fund' (hereinafter in this section referred to as the 'Fund'), which shall consist of amounts retained and deposited into the Fund under section 308(d).

"(b) USE.—Subject to amounts provided in Appropriation Acts, amounts in the Fund shall be available to the Under Secretary for use for the following:

"(1) ADMINISTRATION.—Expenses incident to the administration of this title, in an amount not to exceed—

"(A) $5,000,000 for fiscal year 1991;

"(B) $5,225,000 for fiscal year 1992;

"(C) $5,460,125 for fiscal year 1993;

"(D) $5,705,830 for fiscal year 1994; and

"(E) $5,962,593 for fiscal year 1995.

"(2) OTHER USES.—After use under paragraph (1)—

"(A) projects to address management issues which are regional in scope, including interstate projects;

"(B) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

"(C) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

"(D) appropriate awards recognizing excellence in coastal zone management as provided in section 314;

"(E) program development grants as authorized by section 305;

"(F) State participation grants under section 306(b); and

"(G) to provide financial support to coastal States for use for investigating and applying the public trust doctrine to implement State management programs approved under section 306.

"(c) REPORT.—On December 1 of each year, the Under Secretary shall transmit to the Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund in the preceding fiscal year.

"SEC. 310. NATIONAL INTEREST IMPROVEMENTS.

"(a) IN GENERAL.—Beginning in fiscal year 1991, the Under Secretary shall implement an ongoing program to encourage each coastal State to make continual improvements in its management program in specified national interest areas. This program shall encourage and monitor improvements in one or more of the following special national interest areas:

"(1) COASTAL WETLANDS MANAGEMENT AND PROTECTION.—Coastal wetlands management

and protection, consistent with the interim goal to achieve no overall net loss of the Nation's remaining wetlands base, including adoption of—

"(A) enforceable policies to manage and protect coastal wetlands; and

"(B) a comprehensive restoration program for coastal wetlands for the purpose of attaining increases in functioning wetlands communities.

"(2) NATURAL HAZARDS MANAGEMENT.—Management of development and redevelopment in hazardous areas, including enforceable policies and management strategies to—

"(A) reduce the threat to life and the destruction of property by discouraging development and redevelopment in high hazard areas;

"(B) properly manage development and redevelopment in other hazard areas including such mechanisms as setbacks, requirements that buildings be suitable for relocation and other special building code standards, and acquisition and relocation programs; and

"(C) anticipate and manage the effects of potential sea level or Great Lakes level rise and land subsidence by—

"(i) requiring consideration of sea level or Great Lakes level rise and land subsidence in the siting of new public infrastructure investments and new large-scale developments with long life expectancies, such as sewage treatment plants, industrial plants, and hazardous waste facilities;

"(ii) establishing and protecting buffer zones for wetlands which are likely to migrate landward in response to sea level or Great Lakes level rise;

"(iii) ensuring that protection of natural resources is a feature of both structural and nonstructural responses to sea level or Great Lakes level rise or land subsidence; and

"(iv) requiring building setbacks and standards that minimize the adverse effects of sea level or Great Lakes level rise or land subsidence.

"(3) PUBLIC ACCESS.—Providing public access to coastal areas, including development of a program to increase public access to coastal areas of recreational, historical, esthetic, ecological, or cultural value, based on assessments of long-term public access needs. This program shall include enforceable policies necessary to meet public needs for access, including appropriate regulatory means and programs to obtain access sites through donation, dedication, and acquisition, and shall include a process for public nomination of areas to be acquired for public access purposes.

"(4) CUMULATIVE AND SECONDARY IMPACTS.—Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect of various individual uses or activities on coastal resources, such as coastal wetlands, and the cumulative effect of nonpoint pollution from individual land uses or water uses.

"(5) COASTAL ENERGY DEVELOPMENT.—Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and accommodate energy-related activities which may be of greater than local significance, including—

"(A) mitigation policies and guidelines which will be applicable to energy development activities;

"(B) procedures to coordinate Federal energy policies and programs with State coastal zone management programs; and

"(C) consolidation of permitting and regulatory reviews.

"(b) NATIONAL INTEREST IMPROVEMENTS PROGRAMS.—To implement the program required under subsection (a), the Under Secretary shall assess, for each coastal State, the priority needs for improvement in each of the special national interest areas, and based on that assessment, shall seek to negotiate a National Interest Improvements Program (hereinafter in this section referred to as a 'program') for each coastal State with an approved management program. Each program shall cover a period of at least 3 years and shall include specific, measurable goals and milestones to facilitate effective oversight by the Under Secretary pursuant to subsection (e).

"(c) NOTIFICATION.—In negotiating each program, the coastal State shall notify and consult with appropriate Federal agencies, State agencies, local governments, regional organizations, port authorities, and the public, and where appropriate shall establish a citizens advisory group to assist in development and implementation of the program.

"(d) PHASED IMPLEMENTATION.—If necessary for effective administration, the Under Secretary may stagger implementation of programs required under subsection (a) such that no less than one-third of the participating coastal States are negotiating a program in any single year.

"(e) EVALUATION.—

"(1) ANNUAL REVIEW.—The Under Secretary shall continually monitor progress in implementing each program negotiated under this section and shall provide each State with an annual evaluation of progress. Unless the Under Secretary finds, for each one-year period, that the coastal State is making continual and satisfactory progress in implementing each component of the program, the Under Secretary shall notify the coastal State and the public and shall specify additional actions required to ensure satisfactory implementation.

"(2) REASSESSMENT AND SUSPENSION.—Six months after notifying a State under paragraph (1), the Under Secretary shall reassess the State's progress. Unless the Under Secretary finds that the State is making satisfactory progress in undertaking the actions required under paragraph (1), the Under Secretary shall suspend that State's eligibility for further funding under this section for at least one year.

"(3) WAIVER.—The Under Secretary may waive the requirements of this section only by finding that a lack of satisfactory progress by a State is due to factors which are beyond the control of the State and which were unforeseen at the time the plan was negotiated. The Under Secretary shall notify the Congress and the public before granting any waiver under this subsection.

"(f) FUNDING.—Beginning in fiscal year 1991, at least 10 percent, but not more than 20 percent, of the amounts appropriated under section 318(a)(1) to implement sections 306 and 306A shall be used by the Under Secretary to implement this section.

"(g) NO STATE MATCH REQUIRED.—No State match is required for activities funded under this section.

"(h) GRANT ALLOCATION.—Funds available to implement this section shall be distributed among eligible States as follows:

"(1) FORMULA GRANTS.—Fifty percent according to regulations promulgated pursuant to section 306(c).

"(2) DISCRETIONARY GRANTS.—Fifty percent for discretionary awards according to guidelines or regulations issued by the Under Secretary pursuant to section 317.

"(i) REGULATIONS.—The Under Secretary shall issue regulations under section 317 providing guidance for any program negotiated under this section.

"SEC. 311. PUBLIC HEARINGS AND MEETINGS.

"All public hearings and meetings required under this title shall be announced at least 45 days prior to the hearing or meeting date. At the time of the announcement, all materials of the agency conducting a hearing or meeting and pertinent to the hearing or meeting, including documents, studies, and other data, shall be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

"SEC. 312. REVIEW OF PERFORMANCE.

"(a) PERIODIC REVIEW OF STATE PROGRAMS.—The Under Secretary shall conduct a continuing review of the performance of coastal States with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which each coastal State has implemented and enforced a program of the State approved by the Under Secretary under this Act (including regarding adherence by State agencies and units of local government to the program), furthered the coastal management program requirements identified in section 303(2), satisfactorily complied with any national interest improvement program under section 310, and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

"(b) PUBLIC PARTICIPATION.—For the purpose of evaluating pursuant to subsection (a) a coastal State's performance, the Under Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form, shall contain written response to all written comments received, and shall be available to the public.

"(c) PROBATIONARY PERIOD.—The Under Secretary may place a coastal State on probation for not more than 2 years if the Under Secretary, on the basis of an evaluation which has been completed pursuant to subsection (b), finds substantial evidence that the State is failing to adequately implement or enforce important components of its approved program but that such evidence or failure constitutes insufficient grounds for action pursuant to subsection (d). If the Under Secretary makes the finding authorized in this subsection—

"(1) the Under Secretary shall notify the coastal State of—

"(A) the effective date of the probation;

"(B) the portion or portions of the program to which the probation is effective; and

"(C) written recommendations for corrective actions; and

"(2) the Under Secretary shall withdraw up to 25 percent of the funds available to the State pursuant to this title for use in assisting the State in implementing the recommendations under paragraph (1)(C), and any funds withdrawn but not used to implement recommendations under paragraph (1)(C) shall be added to amounts appropriated under section 318(a)(1).

"(d) PROGRAM DISAPPROVAL.—The Under Secretary shall withdraw approval of the management program of any coastal State, and shall withdraw any financial assistance available to that State under this title as well as any unexpended portion of such assistance, if the Under Secretary determines that the State is failing to adhere to, and is not justified in deviating from—

"(1) the management program approved by the Under Secretary, or

"(2) the terms of any grant or cooperative agreement funded under this title, and refuses to remedy the deviation.

Upon the withdrawal of management program approval under this subsection, the Under Secretary shall provide the coastal State with written specifications of the actions that should be taken, or not engaged in, by the State in order that such withdrawal may be canceled by the Under Secretary.

"(e) ADVANCE NOTIFICATION REQUIRED.—Prior to taking any action required under subsection (c) or (d), the Under Secretary shall notify the coastal State and provide an opportunity for a public hearing on the proposed action.

"SEC. 313. RECORDS AND AUDIT.

"(a) RECORDS.—Each recipient of financial assistance under this title shall keep any records as the Under Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received and of the proceeds of the assistance, the portion of the total cost of any project or undertaking supplied by other sources, and other records as will facilitate an effective audit.

"(b) ACCESS TO RECORDS.—The Under Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

"(1) after any financial assistance is provided under this title; and

"(2) until the expiration of 3 years after—

"(A) completion of the project, program, or other undertaking for which financial assistance was made or used, or

"(B) repayment of the loan or guaranteed indebtedness for which financial assistance was provided;

have access to audit and examine any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the financial assistance and which is pertinent for purposes of determining if the financial assistance is being, or was, used in accordance with this title.

"SEC. 314. WALTER B. JONES EXCELLENCE IN COASTAL MANAGEMENT AWARDS.

"(a) IN GENERAL.—The Under Secretary shall, using sums in the Coastal Zone Management Fund established under section 309, implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.

"(b) AWARD CATEGORIES AND SELECTION.—The Under Secretary shall select annually—

"(1) one individual, other than an employee or officer of the Federal Government, whose contribution to the field of coastal zone management has been the most significant;

"(2) 5 local governments which have made the most progress in developing and implementing the coastal zone management principles embodied in this title; and

"(3) up to 10 graduate students whose academic study promises to contribute materially to development of new or improved approaches to coastal zone management.

"(c) LOCAL GOVERNMENT NOMINATIONS.—In making selections under subsection (b)(2) the Under Secretary shall solicit nominations from the coastal States, and shall consult with experts in local government planning and land use.

"(d) GRADUATE STUDENT NOMINATIONS.—In making selections under subsection (b)(3) the Under Secretary shall solicit nominations from coastal States and the National Sea Grant College Program.

"(e) WALTER B. JONES AWARDS.—Using sums in the Coastal Zone Management Fund established under section 309, the Under Secretary shall establish and execute appropriate awards, to be known as the 'Walter B. Jones Awards', including—

"(1) cash awards in an amount not to exceed $5,000 each;

"(2) research grants; and

"(3) public ceremonies to acknowledge such awards.

"SEC. 315. NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM.

"(a) ESTABLISHMENT OF SYSTEM.—There is established the National Estuarine Research Reserve System (hereinafter in this section referred to as the 'System'), consisting of—

"(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and

"(2) each estuarine area designated as a national estuarine research reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine research reserve.

"(b) DESIGNATION OF NATIONAL ESTUARINE RESEARCH RESERVES.—The Under Secretary may designate an estuarine area as a national estuarine research reserve if—

"(1) the area constitutes, to the extent feasible, a natural unit which can be set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationship within the area;

"(2) the Governor of the coastal State in which the area is located nominates the area for that designation; and

"(3) the Under Secretary finds that—

"(A) the area is a representative estuarine ecosystem that is suitable for long-term monitoring and research and contributes to the biogeographical and typological balance of the System;

"(B) the laws of the coastal State provide long-term protection for reserve resources to ensure a stable environment for research;

"(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

"(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Under Secretary to implement this section.

"(c) ESTUARINE RESEARCH GUIDELINES.—The Under Secretary shall develop guidelines for the conduct of research within the System that shall include the following:

"(1) IDENTIFYING PRIORITIES.—A mechanism for identifying and establishing priorities among the coastal management issues that should be addressed through coordinated research within the System.

"(2) RESEARCH OBJECTIVES.—The establishment of common research principles and objectives to guide the development of research programs within the System.

"(3) COMMON METHODS.—The identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes.

"(4) MONITORING.—The conduct of monitoring activities within the System, including the monitoring of physical, chemical, and biological parameters and criteria associated with the estuarine ecosystem.

"(5) STANDARDS.—The establishment of performance standards by which the effectiveness of the research efforts and the value of reserves within the System may be measured in addressing and coastal management issues identified in paragraph (1),

"(6) OUTSIDE FUNDING SOURCES.—The consideration of sources of funds for estuarine research in addition to amounts authorized under this title, and strategies for encouraging the use of these funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this subsection, the Under Secretary shall consult with prominent members of the estuarine research community.

"(d) PROMOTION AND COORDINATION OF ESTUARINE RESEARCH.—The Under Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes, including the following:

"(1) DATA MANAGEMENT.—Developing a data base accessible to the public for information derived from monitoring and research activities within the System.

"(2) TECHNICAL TRANSFER.—Providing for the exchange of information and data among national estuarine research reserves and between the reserves and estuarine and coastal resource managers.

"(3) PRIORITY CONSIDERATION.—Requiring the Department of Commerce, in conducting or supporting estuarine research, to give priority consideration to research that uses the System.

"(4) PROMOTING RESEARCH.—Consulting with other Federal and State agencies to promote use by such agencies of one or more national estuarine research reserves within the System when conducting estuarine research.

"(e) EDUCATION.—The Under Secretary shall—

"(1) develop guidelines providing for education activities in national estuarine research reserves;

"(2) promote the use of national estuarine research reserves by educational institutions and by programs of the United States Department of Education; and

"(3) establish and implement a program to exchange educational information throughout the System.

"(f) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—The Under Secretary may, in accordance with such rules and regulations as the Under Secretary shall promulgate, make grants—

"(A) to a coastal State entity—

"(i) to acquire lands and waters, and any property interests therein, necessary to ensure the appropriate long-term management of an area as a national estuarine research reserve,

"(ii) to operate or manage a national estuarine research reserve and to construct appropriate reserve facilities, or

"(iii) for educational or interpretive activities; and

"(B) to any coastal State entity or public or private institution or person to support research and monitoring within a national estuarine research reserve that are consistent with the research guidelines developed under subsection (c).

"(2) TERMS AND CONDITIONS.—Financial assistance provided under paragraph (1) shall be subject to any terms and conditions the Under Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interests of the United States in any lands and waters acquired in whole or in part with financial assistance under this section.

"(3) MATCHING FUNDS.—(A) The amount of financial assistance provided under paragraph (1)(A)(i) for any one national estuarine research reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein, or $6,000,000, whichever amount is less.

"(B) The amount of the financial assistance provided under paragraphs (1)(A) (ii) and (iii) and paragraph (1)(B) may not exceed 50 percent of the costs incurred to achieve the purposes described in those paragraphs with respect to a national estuarine research reserve.

"(C) For purposes of this section, the term 'coastal State entity' means any legal entity established by legislative or executive act or order of a coastal State's government, including State universities, colleges, commissions, consortia, boards, or other institutions established for purposes, including research, education, or resource management.

"(g) EVALUATION OF SYSTEM PERFORMANCE.—

"(1) IN GENERAL.—The Under Secretary shall periodically evaluate the operation and management of each national estuarine research reserve, including educational and interpretive activities, and the research being conducted within the reserve.

"(2) SUSPENSION OF FUNDING.—If evaluation under paragraph (1) reveals that the operations and management of national estuarine research reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Under Secretary may suspend the eligibility of that reserve for financial assistance under subsection (f) until the deficiency or inconsistency is remedied.

"(3) WITHDRAWAL OF DESIGNATION.—The Under Secretary may withdraw the designation of an estuarine area as a national estuarine research reserve if evaluation under paragraph (1) reveals that—

"(A) the basis for any of the findings made under subsection (b)(3) no longer exists; or

"(B) a substantial portion of the research conducted within the reserve, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

"(h) REPORT.—The Under Secretary shall include in the report required under section 316 information regarding—

"(1) new designations of national estuarine research reserves;

"(2) any expansion of existing national estuarine research reserves;

"(3) the status of the research program being conducted within the System; and

"(4) a summary of the evaluations made under subsection (g).

"(i) COOPERATIVE AGREEMENTS AND DONATIONS.—

"(1) COOPERATIVE AGREEMENTS.—The Under Secretary may enter into cooperative agreements with any nonprofit organization or institution of higher learning—

"(A) to aid and promote interpretive, historical, scientific, and educational activities within any national estuarine research reserve; and

"(B) for the solicitation of private donations for the support of such activities.

"(2) DONATIONS.—The Under Secretary may accept donations of funds, property, and services for use in designating and administering national estuarine research reserves under this section. Such donations shall be considered to be a gift or bequest to, or for the use of, the United States.

"SEC. 316. COASTAL ZONE MANAGEMENT REPORT.

"(a) IN GENERAL.—The Under Secretary shall transmit to the Congress reports summarizing the administration of this title during each period of 2 consecutive fiscal years. Each report shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, and shall include the following:

"(1) RECENTLY APPROVED PROGRAMS.—An identification of the State programs approved pursuant to this title during the preceding fiscal year and a description of those programs.

"(2) PARTICIPATING STATES.—A list of the coastal States participating under this title and a description of the status of each State's program and its accomplishments during the preceding fiscal year.

"(3) NONPARTICIPATING STATES.—A list of the coastal States not participating under this title, a description of efforts by the Under Secretary to encourage their participation, and additional action or incentives needed to secure participation.

"(4) FUNDING SUMMARY.—An itemization of the allocation of funds to the various coastal States and a breakdown of the major projects and areas in which these funds were expended.

"(5) PROGRAM PROBATIONS AND DISAPPROVALS.—An identification of any coastal State program which has been reviewed and placed on probation or disapproved, and a statement of the reasons for that action.

"(6) EVALUATION SUMMARY.—A summary of evaluation findings prepared in accordance with section 312(a).

"(7) INCONSISTENT ACTIVITIES AND PROJECTS.—A list of all activities and projects which are not consistent with an applicable approved State management program.

"(8) REVISED REGULATIONS.—A summary of the regulations issued by the Under Secretary during the biennial period covered by the report.

"(9) PRIORITY PROBLEMS.—A summary of outstanding problems arising in the administration of this title, in order of priority.

"(10) MISCELLANEOUS.—Any other information as may foster effective oversight by the Congress.

"(11) STATE VIEWS.—Summary views and recommendations from each coastal State, including recommendations for additional legislation, necessary to achieve the objectives of this title and enhance its effective operation.

"(b) GUIDELINES.—For the purposes of paragraph (11), the Under Secretary shall issue guidelines to the coastal States which outline the format for submitting summary views and recommendations.

"SEC. 317. RULES AND REGULATIONS.

"The Under Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after issuance of notice and opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, any rules and regulations as may be necessary to carry out the provisions of this title.

"SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Under Secretary—

"(1) for grants under sections 306 and 306A, not to exceed $46,670,000 for fiscal year 1991, $48,770,000 for fiscal year 1992, $50,965,000 for fiscal year 1993, $53,258,000 for fiscal year 1994, and $55,655,000 for fiscal year 1995, to remain available until expended;

"(2) for grants under section 306B, not to exceed $10,000,000 for fiscal year 1991, $20,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, $35,000,000 for fiscal year 1994, and $40,000,000 for fiscal year 1995, to remain available until expended; and

"(3) for grants under section 315, not to exceed $7,000,000 for fiscal year 1991, $7,355,000 for fiscal year 1992, $7,710,000 for fiscal year 1993, $8,065,000 for fiscal year 1994, and $8,420,000 for fiscal year 1995, to remain available until expended.

"(b) LIMITATION ON MATCHING FUNDS.—Federal funds received from other sources shall not be used to pay a coastal State's share of costs under section 306.

"(c) UNOBLIGATED GRANTS.—The amount of any grant, or portion of a grant, made to a coastal State under any section of this Act which is not obligated by the State during the fiscal year, for which it was first authorized to be obligated by the State, or during the next fiscal year, shall revert to the Under Secretary. The Under Secretary shall add the reverted amount to those funds available for grants under the section for which the reverted amount was originally made available.

"(d) PASSTHROUGH OF GRANT FUNDS.—With the approval of the Under Secretary, a coastal State may allocate to a local government, an area-wide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this title. An allocation of grant funds shall not relieve a State of the responsibility for ensuring that any funds so allocated are used in conformance with applicable grant terms and conditions and to further the State's approved management program.

"SEC. 319. INTERSTATE AGREEMENTS AND COMPACTS.

"The consent of the Congress is hereby given to 2 or more coastal States to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

"(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

"(2) establishing executive instrumentalities or agencies which such States deem desirable for the effective implementation of such agreements or compacts. Such agreements or compacts shall be binding and obligatory upon any State or party thereto without further approval by the Congress.".

SEC. 7304. DEADLINES FOR COMPLIANCE.

(a) NEW REQUIREMENTS.—Each State which submits a management program for approval under section 306 of the Coastal Zone Management Act of 1972, as amended by this Act (including a State which submitted such a program before the date of the enactment of this Act), shall demonstrate to the Under Secretary of Commerce for Oceans and Atmosphere compliance with the requirements of section 306(d)(14) and (15) of that Act by not later than 2 years after the date of the enactment of this Act.

(b) LAND USE MANAGEMENT PROGRAM GUIDELINES AND REGULATIONS.—Within 180 days after the date of the enactment of this Act, the Under Secretary of Commerce for Oceans and Atmosphere shall issue guidelines for coastal States to follow in developing a program under section 306B of the Coastal Zone Management Act of 1972, as amended by this Act. Within 18 months after that date of enactment, the Under Secretary shall promulgate regulations governing the receipt, review, and approval of programs under that section.

SEC. 7305. PACIFIC ISLAND STATE DEMONSTRATION PROJECT.

(a) AUTHORIZATION.—There is authorized to be appropriated not more than $100,000 for each of fiscal years 1991 through 1995 for use by one Pacific island coastal State to develop a draft joint Federal-State resource management plan for ocean resources lying 3 to 12 miles from the baseline from which

its territorial sea is measured. Amounts appropriated under this section may not be used to develop a plan affecting fishery resources subject to management under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) REPORT.—At the end of fiscal year 1995, the Pacific island coastal State which develops a management plan pursuant to subsection (a) shall transmit the plan to the Congress.

SEC. 7206. REFERENCE.

A reference in any law, regulation, record, map, or paper or other document to the Coastal Zone Management Act of 1972 may be construed to be a reference to such Act, as amended by this Act.

SEC. 7207. FEDERAL AGENCY CONSISTENCY.

The consistency requirements of section 307 of the Coastal Zone Management Act (16 U.S.C. 1456) shall apply to Federal agency activities or federally permitted activities under title I of the Marine, Protection, Research, and Sanctuaries Act of 1972, if the Federal activity or permitted activity affects land uses, water uses, or natural resources of the coastal zone.

Subtitle C—Clean Beaches

SEC. 7301. SHORT TITLE.

This subtitle may be cited as the "Beaches Environmental Assessment, Closure, and Health Act of 1990".

SEC. 7302. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) the Nation's beaches are a valuable public resource used for recreation by millions of people annually;

(2) the beaches of coastal States are hosts to many out-of-State and international visitors;

(3) tourism in the coastal zone generates billions of dollars annually;

(4) as of the year 2000, as much as 80 percent of the Nation's population may be living within 50 miles of the coast;

(5) increased population has contributed to the decline in the environmental quality of coastal waters;

(6) pollution in coastal waters is not restricted by State and other political boundaries;

(7) each coastal State has its own method of testing the quality of its coastal recreation waters, providing varying degrees of protection to the public; and

(8) the adoption of standards by coastal States for monitoring the quality of coastal recreation waters, and the posting of signs at beaches notifying the public during periods when the standards are exceeded, would enhance public health and safety.

(b) PURPOSE.—The purpose of this subtitle is to require uniform procedures for beach testing and monitoring to protect public safety and improve the environmental quality of coastal recreation waters.

SEC. 7303. WATER QUALITY CRITERIA FOR COASTAL RECREATION WATERS.

Section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(9) COASTAL RECREATION WATERS.—(A) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall review and revise within 1 year after the effective date of this paragraph (and from time to time thereafter) water quality criteria for coastal recreation waters. The criteria shall be based on a national goal of eliminating human health risks posed from pathogens in those waters, and until that goal is met shall ensure the protection of public health. The criteria shall include specific numeric criteria calculated to reflect public health risks from short-term increases in pathogens in coastal recreation waters resulting from rainfall, malfunctions of wastewater treatment works, and other causes.

"(B) Not later than 9 months after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under subparagraph (A), the Administrator shall publish regulations specifying methods to be used by States to test coastal recreation waters, during periods of use by the public, for compliance with standards adopted or effective under section 303(i). The regulations shall include—

"(i) requirements for the frequency of testing based on whether particular waters subject to testing are used frequently, moderately, or occasionally;

"(ii) methods for detecting short-term increases in pathogens in coastal recreation waters resulting from rainfall, malfunctions of wastewater treatment works, and other causes; and

"(iii) requirements for testing based on proximity of particular waters to pollution sources.

"(C) Not later than 9 months after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under subparagraph (A), the Administrator shall publish regulations that require States to post signs on beaches adjoining coastal recreation waters during periods when those waters do not comply with applicable water quality standards, which notify the public of that noncompliance and potential risks. A State may delegate responsibility for posting of coastal recreation waters to local government authorities.

"(D) The Administrator, after consultation with appropriate Federal and State agencies, shall develop and publish within 1 year after the effective date of this paragraph guidance on uniform assessment and monitoring procedures for floatable materials in coastal recreation waters.

"(E) For purposes of this paragraph—

"(i) the term 'coastal recreation waters' means waters in the coastal zone (as that term is defined in section 304 of the Coastal Zone Management Act of 1972) commonly used by the public for swimming, bathing, or other similar primary contact purposes; and

"(ii) the term 'floatable materials' means any matter that may float or remain suspended in the water column, and includes plastic, aluminum cans, wood, bottles, and paper products.".

SEC. 7304. WATER QUALITY STANDARDS FOR COASTAL RECREATION WATERS.

Section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313) is amended by adding at the end the following:

"(i) WATER QUALITY STANDARDS FOR COASTAL RECREATION WATERS.—

"(1) STATE WATER QUALITY STANDARDS.—Not later than 2 years after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under section 304(a)(9)(A), each State shall adopt and submit to the Administrator for approval under this section water quality standards based on those criteria for coastal recreation waters of the State.

"(2) FAILURE OF STATE TO ADOPT WATER QUALITY STANDARDS.—If a State fails to adopt water quality standards in accordance with paragraph (1), the criteria published by the Administrator under section 304(a)(9) shall take effect as water quality standards for coastal recreation waters of the State until such time as the State adopts its own water quality standards.

"(3) COASTAL RECREATION WATERS DEFINED.—For purposes of this subsection, the term 'coastal recreation waters' has the meaning that term has in section 304(a)(9).".

SEC. 7305. STUDY TO IDENTIFY INDICATORS OF HUMAN-SPECIFIC PATHOGENS IN COASTAL RECREATION WATERS.

(a) STUDY.—The Administrator of the Environmental Protection Agency, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct an ongoing study to provide additional information to the current base of knowledge, for use for—

(1) developing better indicators for directly detecting in coastal recreation waters the presence of bacteria and viruses which are harmful to human health; and

(2) revising the criteria for coastal recreation waters under section 304(a)(9)(A) of the Federal Water Pollution Control Act (as amended by this Act).

(b) REPORT.—Not later than 3 years after the date of the issuance of revised criteria under section 304(a)(9) of the Federal Water Pollution Control Act (as amended by this Act), and periodically thereafter, the Administrator of the Environmental Protection Agency shall submit to the Congress a report describing the findings of the study under this section, including—

(1) recommendations for any necessary revisions to water quality criteria for coastal recreation waters;

(2) a description of the amounts and types of floatable materials in coastal waters and on coastal beaches, and of recent trends in the amounts and types of such floatable materials; and

(3) an evaluation of State efforts to implement this title.

SEC. 7306. PARTICIPATION OF STATE COASTAL ZONE MANAGEMENT PROGRAMS.

(a) TECHNICAL ASSISTANCE.—Each coastal zone management agency of a State with an approved coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 shall provide technical assistance to local governments within the State for ensuring that coastal recreation waters and beaches are as free as possible from floatable materials.

(b) CLEAN-UP OF COASTAL RECREATION WATERS AND BEACHES.—Section 306A of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455a) is amended—

(1) by adding at the end of subsection (b) the following:

"(4) REDUCTION OF FLOATABLE MATERIALS.—Reduction of floatable materials in the State's coastal recreation waters, by—

"(A) managing adjacent land uses so that floatable materials are not introduced into those waters;

"(B) encouraging public participation in reducing the amount of floatable materials that enter coastal recreation waters; and

"(C) sponsoring clean-up events at public beaches.";

(2) in subsection (c)(2)—

(A) by striking "and" after the semicolon at the end of subparagraph (D);

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

(C) by adding at the end the following:

"(F) the acquisition of beach and coastal recreation water clean-up equipment."; and

(3) by adding at the end the following:

"(e) DEFINITIONS.—In this section—

"(1) the term 'coastal recreation waters' has the meaning that term has in section 304(a)(9) of the Federal Water Pollution Control Act; and

"(2) the term 'floatable materials' means any matter that may float or remain suspended in the water column, and includes plastic, aluminum cans, wood, bottles, and paper products.".

SEC. 7307. GRANTS TO STATES.

(a) GRANTS.—The Administrator of the Environmental Protection Agency is authorized to make grants to States for use in fulfilling requirements established pursuant to sections 7303 and 7304.

(b) COST SHARING.—The total amount of grants to a State under this section for a fiscal year shall not exceed 50 percent of the cost to the State of implementing requirements established pursuant to sections 7303 and 7304.

SEC. 7308. DEFINITIONS.

In this subtitle—

(1) the term "coastal recreation waters" means waters in the coastal zone (as that term is defined in section 304 of the Coastal Zone Management Act of 1972) commonly used by the public for swimming, bathing, or other similar primary contact purposes; and

(2) the term "floatable materials" means any matter that may float or remain suspended in the water column, and includes plastic, aluminum cans, wood, bottles, and paper products.

SEC. 7309. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Administrator of the Environmental Protection Agency—

(1) for use in making grants to States under section 7307 not more than $3,000,000 for each of the fiscal years 1991 and 1992; and

(2) for carrying out the other provisions of this subtitle not more than $1,000,000 for each of the fiscal years 1991 and 1992.

TITLE VIII—COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Subtitle A—Civil Service

SEC. 8001. ELIMINATION OF LUMP-SUM RETIREMENT BENEFIT.

(a) LUMP-SUM BENEFIT.—(1) Sections 8343a and 8420a of title 5, United States Code, are each amended by adding at the end the following:

"(f)(1) Notwithstanding any other provision of this section, and except as provided in paragraph (2), an alternative form of annuity under this section may not be elected if the commencement date of the annuity would be later than November 1, 1990.

"(2) Nothing in this subsection shall prevent an election from being made by an employee or Member who, at the time of retiring under this subchapter, is at least 65 years of age and has completed at least 30 years of service.

"(3) This subsection shall cease to be effective as of October 1, 1995.".

(2) Section 4005 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239; 103 Stat. 2135) is amended—

(A) in subsection (a), by striking "October 1, 1990." and inserting "November 2, 1990."; and

(B) by adding at the end the following:

"(f) CONTINUED APPLICABILITY.—The preceding provisions of this section (disregarding the provision in subsection (a) limiting this section's applicability to annuities commencing before the date specified in such provision) shall also apply in the case of any employee or Member whose election of an alternative form of annuity would not have been allowable under section 8343a(f) or 8420a(f) of title 5, United States Code (as the case may be), but for paragraph (2) thereof.".

(C)(i) Section 6001(b)(2) of the Omnibus Budget Reconciliation Act of 1987 (5 U.S.C. 8343a note) and section 4005(b)(2) of the Omnibus Budget Reconciliation Act of 1989 (103 Stat. 2135) are each amended by striking "described in paragraph (1)." and inserting "on which the payment described in paragraph (1) is paid.".

(ii) The amendments made by clause (i) shall not apply in any case in which the first half of the lump-sum payment involved was paid before the beginning of the 11-month period which ends on the date of the enactment of this Act.

(D) Section 2 of Public Law 101-227 (103 Stat. 1943) is repealed.

(3) Section 8348(a)(1)(B) of title 5, United States Code, is amended by inserting "in administering alternative forms of annuities under sections 8343a and 8420a (and related provisions of law)," before "and in withholding".

(b) PRIOR REFUNDS.—(1) Section 8334(d) of title 5, United States Code, is amended—

(A) by striking "(d)" and inserting "(d)(1)"; and

(B) by adding at the end the following:

"(2)(A) This paragraph applies with respect to any employee or Member who—

"(i) separates before October 1, 1990, and receives (or elects, in accordance with applicable provisions of this subchapter, to receive) a refund (described in paragraph (1)) which relates to a period of service ending before October 1, 1990;

"(ii) retires on or after November 1, 1990, entitled to an annuity under this subchapter (other than a disability annuity) based on service of such employee or Member; and

"(iii) does not make the deposit (described in paragraph (1)) required in order to receive credit for the period of service with respect to which the refund relates.

"(B) Notwithstanding the second sentence of paragraph (1), the annuity to which an employee or Member under this paragraph is entitled shall (subject to adjustment under section 8340) be equal to an amount which, when taken together with the unpaid amount referred to in subparagraph (A)(iii), would result in the present value of the total being actuarially equivalent to the present value of the annuity which would otherwise be provided the employee or Member under this subchapter, as computed under subsections (a)-(i) and (n) of section 8339 (treating, for purposes of so computing the annuity which would otherwise be provided under this subchapter, the deposit referred to in subparagraph (A)(iii) as if it had been timely made).

"(C) The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this paragraph.".

(2)(A) Section 8334 of title 5, United States Code, is amended in paragraphs (1) and (2) of subsection (e), and in subsection (h), by striking "(d)," and inserting "(d)(1),".

(B) Section 8334(f) and section 8339(i)(1) of title 5, United States Code, are amended by striking "(d)" and inserting "(d)(1)".

(C) Section 8339(e) of title 5, United States Code, is amended by striking "8334(d)" and inserting "8334(d)(1)".

(D) The second sentence of section 8342(a) of title 5, United States Code, is amended by inserting "or 8334(d)(2)" after "8343a".

(3) The amendments made by this subsection shall be effective with respect to any annuity having a commencement date later than November 1, 1990.

SEC. 8002. REFORMS IN THE HEALTH BENEFITS PROGRAM.

(a) HOSPITALIZATION-COST-CONTAINMENT MEASURES.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

"(n) A contract for a plan described by section 8903(1), (2), or (3), or section 8903a, shall require the carrier—

"(1) to implement hospitalization-cost-containment measures, including measures—

"(A) for verifying the medical necessity of any proposed treatment or surgery;

"(B) for determining the feasibility or appropriateness of providing services on an outpatient rather than on an inpatient basis;

"(C) for determining the appropriate length of stay (through concurrent review or otherwise) in cases involving inpatient care; and

"(D) involving case management, if the circumstances so warrant; and

"(2) to establish incentives to encourage compliance with measures under paragraph (1).".

(b) IMPROVED CASH MANAGEMENT.—Section 8909(a) of title 5, United States Code, is amended by adding at the end (as a flush left sentence) the following:

"Payments from the Fund to a plan participating in a letter-of-credit arrangement under this chapter shall, in connection with any payment or reimbursement to be made by such plan for a health service or supply, be made only on a checks-presented basis (as defined under regulations of the Department of the Treasury).".

(c) EXEMPTION FROM STATE PREMIUM TAXES.—Section 8909 of title 5, United States Code, is amended by adding at the end the following:

"(f)(1) No tax, fee, or other monetary payment may be imposed, directly or indirectly, on a carrier or an underwriting or plan administration subcontractor of an approved health benefits plan by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, with respect to any payment made from the Fund.

"(2) Paragraph (1) shall not be construed to exempt any carrier or underwriting or plan administration subcontractor of an approved health benefits plan from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by such carrier or underwriting or plan administration subcontractor from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(d) IMPROVED COORDINATION WITH MEDICARE.—Section 8910 of title 5, United States Code, is amended by adding at the end the following:

"(d) The Office, in consultation with the Department of Health and Human Services, shall develop and implement a system through which the carrier for an approved health benefits plan described by section 8903 or 8903a will be able to identify those annuitants or other individuals covered by such plan who are entitled to benefits under part A or B of title XVIII of the Social Security Act in order to ensure that payments under coordination of benefits with Medicare do not exceed the statutory maximums which physicians may charge Medicare enrollees.".

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective as of January 1, 1991, and shall apply with respect to contract years beginning on or after that date.

Subtitle B—Postal Service

SEC. 8101. FUNDING OF COLAS FOR POSTAL SERVICE ANNUITANTS AND SURVIVOR ANNUITANTS.

(a) EXPANDED SCOPE OF COVERAGE; CHANGE IN PRORATION RULE.—Section 8348(m) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking "October 1, 1986," each place it appears and inserting "July 1, 1971,"; and

(2) in paragraph (3), by striking "civilian service performed after June 30, 1971," and inserting "service performed as an employee of the United States Postal Service,".

(b) REPEAL OF PROVISION RELATING TO CERTAIN EARLIER COLAs.—Section 4002(b) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239; 103 Stat. 2134) is repealed.

(c) PROVISION RELATING TO PRE-1991 COLAs.—(1) For the purpose of this subsection—

(A) the term "pre-1991 COLA" means a cost-of-living adjustment which took effect in any of the fiscal years specified in subparagraphs (A)-(N) of paragraph (3);

(B) the term "post-1990 fiscal year" means a fiscal year after fiscal year 1990; and

(C) the term "pre-1991 fiscal year" means a fiscal year before fiscal year 1991.

(2) Notwithstanding any other provision of law, an installment (equal to an amount determined by reference to paragraph (3)) shall be payable by the United States Postal Service in a post-1990 fiscal year, with respect to a pre-1991 COLA, if such fiscal year occurs within the 15-fiscal-year period which begins with the first fiscal year in which that COLA took effect, subject to section 8104.

(3) Notwithstanding any provision of section 8348(m) of title 5, United States Code, or any determination thereunder (including any made under such provision, as in effect before October 1, 1990), the estimated increase in the unfunded liability referred to in paragraph (1) of such section 8348(m) shall be payable, in accordance with this subsection, based on annual installments equal to—

(A) $6,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1977;

(B) $7,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1978;

(C) $10,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1979;

(D) $20,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1980;

(E) $26,100,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1981;

(F) $28,100,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1982;

(G) $30,600,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1983;

(H) $5,700,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1984;

(I) $19,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1985;

(J) $7,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1986;

(K) $8,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1987;

(L) $38,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1988;

(M) $36,600,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1989; and

(N) $41,900,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1990.

(4) Any installment payable under this subsection shall be paid by the Postal Service at the same time as when it pays any installments due in that same fiscal year under section 8348(m) of title 5, United States Code.

(5) An installment payable under this subsection in a fiscal year, with respect to a pre-1991 COLA, shall be in lieu of any other installment for which the Postal Service might otherwise be liable in such fiscal year, with respect to such COLA, under section 8348(m) of title 5, United States Code.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 1990.

SEC. 8102. FUNDING OF HEALTH BENEFITS FOR POSTAL SERVICE RETIREES AND SURVIVORS OF POSTAL SERVICE EMPLOYEES OR RETIREES.

(a) EXPANDED SCOPE OF COVERAGE.—Section 8906(g)(2) of title 5, United States Code, is amended by striking "October 1, 1986," each place it appears and inserting "July 1, 1971,".

(b) CONTRIBUTIONS TO BE PRORATED.—Section 8906(g)(2) of title 5, United States Code, as amended by subsection (a), is further amended—

(1) by striking "(2)" and inserting "(2)(A)"; and

(2) by adding at the end the following:

"(B) In determining any amount for which the Postal Service is liable under this paragraph, the amount of the liability shall be prorated to reflect only that portion of total service which is attributable to service performed (by the former postal employee or by the deceased individual referred to in subparagraph (A), as the case may be) as an employee of the United States Postal Service, as estimated by the Office of Personnel Management.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1990, and shall apply with respect to amounts payable for periods beginning on or after that date.

SEC. 8103. PAYMENTS RELATING TO AMOUNTS WHICH WOULD HAVE BEEN DUE BEFORE FISCAL YEAR 1987.

(a) DEFINITION.—For the purpose of this section, the term "pre-1987 fiscal year" means a fiscal year before fiscal year 1987.

(b) FOR PAST RETIREMENT COLAs.—As payment for any amounts which would have been due in any pre-1987 fiscal year under the provisions of section 8348(m) of title 5, United States Code (as amended by section 8101) if such provisions had been in effect as of July 1, 1971, the United States Postal Service shall pay into the Civil Service Retirement and Disability Fund—

(1) $253,300,000, not later than September 30, 1991;

(2) $566,200,000, not later than September 30, 1992;

(3) $548,600,000, not later than September 30, 1993;

(4) $530,200,000, not later than September 30, 1994; and

(5) $510,900,000, not later than September 30, 1995.

(c) FOR PAST HEALTH BENEFITS.—As payment for any amounts which would, for any period ending before the start of fiscal year 1987, have been payable under the provisions of section 8906(g)(2) of title 5, United States Code (as amended by section 8102) if such provisions had been in effect as of July 1, 1971, the United States Postal Service shall pay into the Employees Health Benefits Fund—

(1) $88,900,000, not later than September 30, 1991;

(2) $198,700,000, not later than September 30, 1992;

(3) $192,600,000, not later than September 30, 1993;

(4) $186,100,000, not later than September 30, 1994; and

(5) $179,300,000, not later than September 30, 1995.

SEC. 8104. TERMINATION OF CONTRIBUTION REQUIREMENTS.

(a) RETIREMENT COLAs.—Section 8348(m) of title 5, United States Code, and section 8101(c) shall cease to be effective at the close of the fiscal year ending on September 30, 1995, and the United States Postal Service shall not be liable for any amount which would first have come due under such section 8348(m) or section 8101(c) after that date.

(b) HEALTH BENEFITS.— The provisions of section 8906(g)(2) of title 5, United States Code, shall not be effective with respect to any amount which (but for this subsection) would otherwise have been payable under such provisions for any period beginning after September 30, 1995.

SEC. 8105. TREATMENT OF CONTRIBUTION REQUIREMENTS FOR POSTAL RATEMAKING PURPOSES.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term "total estimated costs" has the meaning given such term by section 3621 of title 39, United States Code;

(2) the term "pre-1992 fiscal year" means a fiscal year before fiscal year 1992; and

(3) the term "amount required to be paid by the United States Postal Service pursuant to the Omnibus Budget Reconciliation Act of 1990" means an amount payable under section 8348(m) or section 8906(g)(2) of title 5, United States Code (as amended by this title), section 8101(c), or section 8103.

(b) RULES.—(1) In making a recommended decision under section 3624 of title 39, United States Code, with respect to a request which was made under section 3622 of such title and which is pending as of the date of enactment of this Act, the Postal Rate Commission shall be governed by the following:

(A) Any amount required to be paid by the United States Postal Service pursuant to the Omnibus Budget Reconciliation Act of 1990 in fiscal year 1992—

(i) shall be treated as a separate and distinct addition to the total estimated costs for such fiscal year; and

(ii) shall not result in the diminution of any other amount which is part of the total estimated costs for such fiscal year.

(B) Any amount required to be paid by the United States Postal Service pursuant to the Omnibus Budget Reconciliation Act of 1990 in a pre-1992 fiscal year shall be taken into account to the same extent and in the same manner as any other cost (comprising part of the total estimated costs) incurred by the Postal Service in that same fiscal year.

(C) The deadline by which the Postal Rate Commission must transmit its recommended decision to the Governors shall be the same as would otherwise apply if this section had not been enacted.

(2) Any recommended decision under section 3624 of title 39, United States Code, subsequent to the one as to which paragraph (1) applies, and which relates to a request under section 3622(a) of such title, shall be made in a manner consistent with the requirements of paragraph (1).

Subtitle A—Coordination

SEC. 8201. COORDINATION.

For purposes of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, this title and the amendments made by this title shall be considered an exception under subsection (b) of such section.

TITLE IX—PUBLIC WORKS AND TRANSPORTATION

Subtitle A—Surface Transportation

SEC. 9001. SHORT TITLE.

This subtitle may be cited as the "Surface Transportation Reconciliation Act of 1990".

SEC. 9002. SUPPLEMENTAL ALLOCATION FOR FISCAL YEAR 1991.

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of title 23, United States Code, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 1991 an amount equal to the estimated tax payments which will be deposited into the Highway Trust Fund (other than the Mass Transit Account) in such fiscal year as a result of any increases in the motor fuel taxes through implementation of the amendments made by this Act to the Internal Revenue Code of 1986.

(b) APPLICABILITY OF CERTAIN SET-ASIDES AND DEDUCTIONS.—Funds authorized to be appropriated to carry out this section shall be subject to the set-asides and deductions referred to in sections 104(a), 104(f), and 307(d) of title 23, United States Code.

(c) ALLOCATION.—On the date of the enactment of this Act or as soon as possible thereafter, the Secretary of Transportation shall allocate the funds authorized to be appropriated by this section which are remaining after the set-asides and deductions are made pursuant to subsection (b) so that each State is allocated an amount equal to such remaining funds multiplied by the ratio of—

(1) the estimated tax payments attributable to highway users in the State which will be deposited into the Highway Trust Fund (other than the Mass Transit Account) in fiscal year 1991 as a result of any increases in the motor fuel taxes through implementation of the amendments made by this Act to the Internal Revenue Code of 1986, to

(2) the estimated tax payments attributable to highway users in all States which will be deposited into such Fund as a result of such increases.

(d) APPLICABILITY OF TITLE 23; PROJECT ELIGIBILITY.—Funds allocated under this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall be available for obligation for fiscal year 1991 and the 3 succeeding fiscal years. Such funds may be obligated only for Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossing projects. Such projects shall be subject to all requirements which would apply to such projects if they were being carried out under such title.

(e) TREATMENT FOR PURPOSES OF DISTRIBUTION OF OBLIGATION AUTHORITY.—Sums allocated pursuant to this section shall not be considered to be sums allocated for purposes of section 105(c) of the Federal-Aid Highway Act of 1987 and any other provision of law distributing obligation authority for Federal-aid highways and highway safety construction.

(f) STATE DEFINED.—For purposes of this section, the term "State" has the meaning such term has under section 101 of title 23, United States Code.

(g) CONFORMING AMENDMENT.—Section 157(a)(3) of title 23, United States Code, is amended by inserting after "(except" the following: "supplemental allocations under section 9002 of the Surface Transportation Reconciliation Act of 1990 and".

SEC. 9003. SUPPLEMENTAL HIGHWAY PROGRAM FOR FISCAL YEARS 1992-1995.

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of title 23, United States Code, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) per fiscal year for each of fiscal years 1992, 1993, 1994, and 1995 an amount equal to the estimated tax payments which will be deposited into the Highway Trust Fund (other than the Mass Transit Account) in such fiscal year as a result of any increases in the motor fuel taxes through implementation of the amendments made by this Act to the Internal Revenue Code of 1986.

(b) REQUIREMENT OF REAUTHORIZATION OF HIGHWAY CONSTRUCTION PROGRAMS.—Funds authorized to be appropriated by this section may only be obligated and apportioned or allocated in accordance with an Act which is approved after the date of the enactment of this Act and authorizes Federal-aid highway and highway safety construction programs after September 30, 1991.

SEC. 9004. SUPPLEMENTAL MASS TRANSIT PROGRAM FOR FISCAL YEAR 1991.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 21(a) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1617(a)) is amended by inserting after paragraph (2) the following new paragraph:

"(3) In addition to the amounts set forth in paragraph (1), there shall be available for fiscal year 1991 from the Mass Transit Account of the Highway Trust Fund only to carry out construction projects under sections 9 and 18 an amount equal to the estimated tax payments which will be deposited into such Account in fiscal year 1991 as a result of any increases in the motor fuels tax through implementation of the amendments made to the Internal Revenue Code of 1986 by the Omnibus Budget Reconciliation Act of 1990, to remain available until expended.".

(b) CONTRACT AUTHORITY.—Section 21(c)(2) of such Act is amended by inserting ", (a)(3)," after "(a)(2)".

(c) RURAL PROGRAM.—Section 21(e) of such Act is amended by inserting after "(a)(1)" the following: ", (a)(3),".

SEC. 9005. SUPPLEMENTAL MASS TRANSIT PROGRAM FOR FISCAL YEARS 1992-1995.

(a) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out the provisions of the Urban Mass Transportation Act of 1964, there is authorized to be appropriated out of the Mass Transit Account of the Highway Trust Fund per fiscal year for each of fiscal years 1992, 1993, 1994, and 1995 an amount equal to the estimated tax payments which will be deposited into such Account in such fiscal year as a result of any increases in the motor fuel taxes through implementation of the amendments made by this Act to the Internal Revenue Code of 1986.

(b) REAUTHORIZATION REQUIREMENT.—Funds authorized to be appropriated by this section may only be obligated and allocated in accordance with an Act which is approved after the date of the enactment of this Act and authorizes the Urban Mass Transportation Act of 1964 after September 30, 1991.

(c) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of Transportation of a grant with funds authorized to be appropriated by this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

SEC. 9006. DISADVANTAGED BUSINESS ENTERPRISES.

Section 106(c)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by inserting before "or obligated under" the following: "or the Surface Transportation Reconciliation Act of 1990".

SEC. 9007. NONAPPLICABILITY OF OBLIGATION LIMITATIONS.

Obligation limitations for Federal-aid highways and highway safety construction and urban mass transportation programs established by this Act or any Act approved before, on, or after the date of the enactment of this Act shall not apply to obligations made under this subtitle (including the amendments made by this subtitle), except where the provision of law establishing such limitation specifically amends or limits the applicability of this section.

SEC. 9008. HOLD HARMLESS BUDGETARY TREATMENT.

For fiscal years 1991, 1992, 1993, 1994, and 1995, the baselines and domestic appropriations cap shall be held harmless for the budget authority and outlays associated with spending attributable to the increase in deposits into the Highway Trust Fund (including the Mass Transit Account) as a result of any increases in the motor fuels tax through implementation of the amendments made to the Internal Revenue Code of 1986 by this Act.

Subtitle B—Aviation Safety and Capacity Expansion

SEC. 9101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Aviation Safety and Capacity Expansion Act of 1990".

(b) TABLE OF CONTENTS.—

SEC. 9102. CONSTRUCTION OF FIREFIGHTING TRAINING FACILITIES.

Section 503(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

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

"(D) any acquisition of land for, or work involved to construct, a burn area training structure on or off the airport for the purpose of providing live fire drill training for aircraft rescue and firefighting personnel required to receive such training by a regulation of the Department of Transportation, including basic equipment and minimum structures to support such training in accordance with standards of the Federal Aviation Administration.".

SEC. 9103. DECLARATION OF POLICY.

Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a)) is amended—

(1) in paragraph (5) by inserting ", including as they may be applied between category and class of aircraft" after "discriminatory practices"; and

(2) in paragraph (13) by inserting "and should not unjustly discriminate between categories and classes of aircraft" after "attempted".

SEC. 9104. AIRPORT IMPROVEMENT PROGRAM.

Section 505 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204) is amended—

(1) in subsection (a) by striking "'13,816,700,000" and inserting '$13,916,700,000"; and

(2) in subsection (b) by striking "September 30, 1987" and inserting "September 30, 1992".

SEC. 9105. AIRWAY IMPROVEMENT PROGRAM.

(a) RENAMING OF AIRWAY PLAN.—Section 504(b)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2203(b)(1)) is amended by inserting after the second sentence the following new sentence: "For fiscal year 1991 and thereafter, the revised plan shall be known as the 'Airway Capital Investment Plan'.".

(b) AIRWAY FACILITIES AND EQUIPMENT.—The first sentence of section 506(a)(1) of such Act (49 U.S.C. App. 2205(a)(1)) is amended by striking "September 30, 1981," and all that follows through the period and inserting the following: "September 30, 1990, aggregate amounts not to exceed $2,500,000,000 for fiscal year 1991 and $5,500,000,000 for the fiscal years ending before October 1, 1992.".

SEC. 9106. FAA OPERATIONS.

Section 106 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—There is authorized to be appropriated for operations of the Administration $4,088,000,000 for fiscal year 1991 and $4,412,600,000 for fiscal year 1992.".

SEC. 9107. OPERATION AND MAINTENANCE OF AVIATION SYSTEM.

(a) ELIMINATION OF PENALTY.—Section 506(c)(3)(B)(i) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(c)(3)(B)(i)) is amended—

(1) by inserting "and" after "1989"; and

(2) by striking "$3,776,000,000" and all that follows through "1992,".

(b) FUNDING.—Section 506(c) of such Act (49 U.S.C. App. 2205(c)) is amended by adding at the end the following new paragraph:

"(4) FISCAL YEARS 1991-1992.—The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for each of fiscal years 1991 and 1992 may not exceed—

"(A) 75 percent of the amount of funds made available under section 505, subsections (a) and (b) of this section, and section 106(k) of title 49, United States Code, for such fiscal year; less

"(B) the amount of funds made available under section 505 and subsections (a) and (b) of this section for such fiscal year.".

SEC. 9108. WEATHER SERVICE.

The second sentence of section 506(d) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(d)) is amended—

(1) by striking "and" the first place it appears and inserting a comma; and

(2) by inserting before the period the following: ", $34,521,000 for fiscal year 1991, and $35,389,000 for fiscal year 1992".

SEC. 9109. MILITARY AIRPORT PROGRAM.

(a) DECLARATION OF POLICY.—Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a)) is further amended—

(1) by striking "and" at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and"; and

(3) by adding at the end the following:

"(14) special emphasis should be placed on the conversion of appropriate former military air bases to civil use and on the identification and improvement of additional joint-use facilities.".

(b) SET-ASIDE.—Section 508(d) of such Act (49 U.S.C. App. 2204(d)) is amended by striking paragraph (5) and inserting the following:

"(5) MILITARY AIRPORT SET-ASIDE.—Not less than 1.5 percent of the funds made available under section 505 in each of fiscal years 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (f) for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

"(6) REALLOCATION.—If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), (4), or (5) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.".

(c) DESIGNATION OF FORMER MILITARY AIRPORTS.—Section 508 of such Act is further amended by adding at the end the following new subsection:

"(f) DESIGNATION OF CURRENT OR FORMER MILITARY AIRPORTS.—

"(1) DESIGNATION.—The Secretary shall designate not more than 8 current or former military airports for participation in the grant program established under subsection (d)(5) and this subsection. At least 2 such airports shall be designated within 6 months after the date of the enactment of this subsection and the remaining airports shall be designated for participation no later than September 30, 1992.

"(2) SURVEY.—The Secretary shall conduct a survey of current and former military airports to identify which ones have the greatest potential to improve the capacity of the national air transportation system. The survey shall also identify the capital development needs of such airports in order to make them part of the national air transportation system and shall identify which capital development needs are eligible for grants under section 505. The survey shall be completed by September 30, 1991.

"(3) LIMITATION.—In selecting airports for participation in the program established under subsection (d)(5) and this subsection and in conducting the survey under paragraph (2), the Secretary shall consider only those current or former military airports whose conversion in whole or in part to civilian commercial or reliever airport as part of the national air transportation system would enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

"(4) PERIOD OF ELIGIBILITY.—An airport designated by the Secretary under this subsection shall remain eligible to participate in the program under subsection (d)(5) and this subsection for the 5 fiscal years following such designation. An airport that does not attain a level of enplaned passengers during such 5 fiscal year period which qualifies it as a small hub airport as defined as of January 1, 1990, or reliever airport may be redesignated by the Secretary for participation in the program for such additional fiscal years as may be determined by the Secretary.

"(5) ADDITIONAL FUNDING.—Notwithstanding the provisions of section 513(b), not to exceed $5,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for any fiscal year may be used by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of terminal building facilities, including terminal gates used by aircraft for enplaning and deplaning revenue passengers. Under no circumstances shall any gates constructed, improved, or repaired with Federal funding under this paragraph be subject to long-term leases for periods exceeding 10 years or majority in interest clauses.".

SEC. 9110. PASSENGER FACILITY CHARGES.

Section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513) is amended—

(1) in subsection (a) by inserting "except as provided in subsection (e) and" before "except that"; and

(2) by adding at the end the following new subsection:

"(e) AUTHORITY FOR IMPOSITION OF PASSENGER FACILITY CHARGES.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, the Secretary may grant a public agency which controls a commercial service airport authority to impose a fee of $1.00, $2.00, or $3.00 for each paying passenger of an air carrier enplaned at such airport to finance eligible airport-related projects to be carried out in connection with such airport or any other airport which such agency controls. For purposes of this subsection, financing an eligible airport-related project includes making payments for debt service on bonds and other indebtedness incurred to carry out such project.

"(2) USE OF REVENUES AND RELATIONSHIP BETWEEN FEES AND REVENUES.—The Secretary may grant a public agency which controls a commercial service airport authority to impose a fee under this subsection to finance specific projects only if the Secretary finds, on the basis of an application submitted for such authority—

"(A) that the amount and duration of the proposed fee will result in revenues (including interest and other returns on such revenues) which do not exceed amounts necessary to finance the specific projects; and

"(B) that each of the specific projects is an eligible airport-related project which will—

"(i) preserve or enhance capacity, safety, or security of the national air transportation system,

"(ii) reduce noise resulting from an airport which is part of such system, or

"(iii) furnish opportunities for enhanced competition between or among air carriers.

"(3) LIMITATION REGARDING PASSENGERS OF AIR CARRIERS RECEIVING ESSENTIAL AIR SERVICE COMPENSATION.—If a passenger of an air carrier is being provided air service to an eligible point under section 419 for which compensation is being paid under such section, a public agency which controls any other airport may not impose a fee pursuant to this subsection for enplanement of such passenger with respect to such air service.

"(4) LIMITATION REGARDING OBLIGATIONS.—No fee may be imposed pursuant to this subsection for a project which is not approved by the Secretary under this subsection on or before September 30, 1992—

"(A) if, during fiscal years 1991 and 1992, the amount available for obligation, in the aggregate, under section 505 of Airport and Airway Improvement Act of 1982 is less than $3,700,000,000; or

"(B)(i) if, during fiscal year 1991, the amount available for obligation, in the aggregate, under section 419 is less than $26,600,000; or

"(ii) if, during fiscal year 1992, the amount available for obligation, in the aggregate, under section 419 is less than $38,600,000.

"(5) TWO ENPLANEMENTS PER TRIP LIMITATION.—Enplaned passengers on whom a fee may be imposed by a public agency pursuant to this subsection include passengers of air carriers originating or connecting at the commercial service airport which the agency controls. A fee may not be collected pursuant to this subsection from a passenger with respect to any enplanement of such passenger, on a one-way trip and on a trip in each direction of a round trip, after the second enplanement for which a fee has been collected pursuant to this subsection from such passenger.

"(6) TREATMENT OF REVENUES.—Revenues derived from collection of a fee by a public agency pursuant to this subsection shall not be treated as airport revenues for the purposes of any contract between such agency and an air carrier.

"(7) EXCLUSIVITY OF AUTHORITY.—No State or political subdivision or agency thereof which is not a public agency controlling a commercial service airport shall prohibit, limit, or regulate the imposition of fees by the public agency pursuant to this subsection, collection of such fees, or use of revenues derived therefrom. No contract between an air carrier and a public agency which controls a commercial service airport entered into before, on, or after the date of the enactment of this subsection shall affect the authority of the public agency to impose fees pursuant to this subsection and to use the revenues derived from such fees in accordance with this subsection.

"(8) NONEXCLUSIVITY OF CONTRACTUAL AGREEMENTS.—No project carried out through the use of a fee collected pursuant to this subsection may be subject to an exclusive long-term lease or use agreement of an air carrier, as defined by the Secretary by regulation. Any lease or use agreement of an air carrier with respect to a facility constructed or expanded through the use of such fee may not contain or be subject to any term or condition which restricts the public agency which controls the airport from funding, developing, or assigning new capacity at the airport.

"(9) COLLECTION AND HANDLING OF FEES BY AIR CARRIERS.—The regulations issued by the Secretary to carry out this subsection shall—

"(A) require air carriers and their agents to collect fees imposed by public agencies pursuant to this subsection;

"(B) establish procedures regarding handling and remittance of the amounts so collected;

"(C) ensure that such amounts are promptly paid to the public agency for which they are collected less a uniform amount determined by the Secretary as reflecting average necessary and reasonable expenses (net of interest accruing to the air carrier and agent after collection and prior to remittance) incurred in the collection and handling of such fees; and

"(D) require that the amount of fees collected pursuant to this subsection with respect to any air transportation be noted on the ticket for such air transportation.

"(10) APPLICATION PROCESS.—

"(A) SUBMISSION.—A public agency which controls a commercial service airport and is interested in imposing a fee pursuant to this subsection shall submit to the Secretary an application for authority to impose such fee.

"(B) CONTENT.—An application submitted under this paragraph shall contain such information and be in such form as the Secretary may require by regulation.

"(C) OPPORTUNITY FOR CONSULTATION.—Before submission of an application under this paragraph, the public agency must provide reasonable notice to, and an opportunity for consultation with, air carriers operating at the airport.

"(D) NOTICE AND OPPORTUNITY FOR COMMENT.—After receiving an application under this paragraph, the Secretary shall provide notice and an opportunity for comment by air carriers and other interested persons concerning such application.

"(E) APPROVAL.—A fee may only be imposed pursuant to this subsection if the Secretary approves an application granting authority for the imposition of such fee. Not later than 120 days after the date of receipt of such an application, the Secretary shall make a final decision regarding approval of such application.

"(11) RECORDKEEPING AND AUDITS.—

"(A) WITH RESPECT TO COLLECTION OF FEES.—The Secretary shall issue regulations requiring such recordkeeping and auditing of accounts maintained by an air carrier and any agency thereof which is collecting a fee imposed pursuant to this subsection and by the public agency which is imposing such fee as may be necessary to ensure compliance with this subsection.

"(B) WITH RESPECT TO USE OF REVENUES.—The Secretary shall periodically audit and review the use by a public agency which controls an airport of revenues derived from a fee imposed pursuant to this subsection. Upon such review and after a public hearing, the Secretary may terminate the authority of such agency to impose such fee, in whole or in part, to the extent the Secretary determines that revenues derived therefrom are not being used in accordance with this subsection.

"(C) SET-OFF.—If the Secretary determines that a fee imposed pursuant to this subsection is excessive or that the revenues derived from such fee are not being used in accordance with this subsection, the Secretary may set off such amounts as may be necessary to ensure compliance with this subsection against amounts otherwise payable to the public agency under the Airport and Airway Improvement Act of 1982.

"(12) TERMS AND CONDITIONS.—Authority granted to impose a fee pursuant to this subsection shall be subject to such terms and conditions as the Secretary may establish to carry out the objectives of this subsection.

"(13) ISSUANCE OF REGULATIONS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue such regulations as may be necessary to carry out this subsection. Such regulations may prescribe the time and form by which a fee imposed pursuant to this subsection shall take effect.

"(14) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

"(A) AIR CARRIER.—The term 'air carrier' includes a foreign air carrier.

"(B) AIRPORT, COMMERCIAL SERVICE AIRPORT, AND PUBLIC AGENCY.—The terms 'airport', 'commercial service airport', and 'public agency' have the meaning such terms have under section 503 of the Airport and Airway Improvement Act of 1982.

"(C) ELIGIBLE AIRPORT-RELATED PROJECT.—The term 'eligible airport-related project' means—

"(i) a project for airport development under the Airport and Airway Improvement Act of 1982;

"(ii) a project for airport planning under such Act;

"(iii) a project for terminal development described in section 513(b) of such Act;

"(iv) a project for airport noise capability planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979;

"(v) a project to carry out noise compatibility measures which are eligible for assistance under section 104 of the Aviation Safety and Noise Abatement Act of 1979 without regard to whether or not a program has been approved for such measures under such section; and

"(vi) a project for construction of gates and related areas at which passengers are enplaned or deplaned.

"(D) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.".

SEC. 9111. REDUCTION IN AIRPORT IMPROVEMENT PROGRAM APPORTIONMENTS FOR LARGE AND MEDIUM HUB AIRPORTS IMPOSING PASSENGER FACILITY CHARGES.

Section 507(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(b)) is amended by adding at the end the following new paragraph:

"(7) REDUCTION IN APPORTIONMENTS TO CERTAIN LARGE AND MEDIUM HUBS.—

"(A) GENERAL RULE.—The amount which, but for this paragraph, would be apportioned under this section for a fiscal year to a sponsor of an airport that annually has 0.25 percent or more of the total annual enplanements in the United States and for which a fee is imposed in such fiscal year pursuant to section 1113(e) of the Federal Aviation Act of 1958 shall be reduced by an amount equal to 50 percent of the projected revenues derived from such fee in such fiscal year.

"(B) LIMITATION.—The maximum reduction in an apportionment to a sponsor of an airport as a result of this paragraph in a fiscal year shall be 50 percent of the amount which, but for this paragraph, would be apportioned to such airport under this section.".

SEC. 9112. USE OF PFC REDUCED APPORTIONMENT FUNDS.

(a) ADDITION OF FUNDS TO EXISTING DISCRETIONARY FUND.—Section 507(c)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(c)(1)) is amended by inserting after the first sentence the following new sentence: "Twenty-five percent of the amounts which are not apportioned under this section as a result of subsection

(b)(7) shall be added to such discretionary fund.".

(b) SMALL AIRPORT FUND.—Section 507 of such Act is amended by redesignating subsections (d) and (e), and any references thereto, as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) SMALL AIRPORT FUND.—

"(1) ESTABLISHMENT.—Seventy-five percent of the amounts which are not apportioned under this section as a result of subsection (b)(7) shall constitute a small airport fund to be distributed at the discretion of the Secretary.

"(2) SET-ASIDE FOR GENERAL AVIATION AIRPORTS.—One-third of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of public-use airports (other than commercial service airports) for any purpose for which funds are made available under section 505.

"(3) SET-ASIDE FOR NONHUB AIRPORTS.—Two-thirds of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of commercial service airports each of which annually has less than 0.05 percent of the total annual enplanements in the United States for any purpose for which funds are made available under section 505.".

(c) PROHIBITION ON REDUCED FUNDING.—It is the sense of Congress that the Secretary should not reduce funding under the discretionary fund established under section 507(c) of the Airport and Airway Improvement Act of 1982 for small commercial service and general aviation airports as a result of additional funds made available to such airports under this section, including amendments made by this section.

SEC. 9113. SMALL COMMUNITY AIR SERVICE PROGRAM.

(a) DEFINITION OF ELIGIBLE POINT.—Section 419(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389(a)) is amended to read as follows:

"(a) ELIGIBLE POINT DEFINED.—

"(1) GENERAL RULE.—For purposes of this section, the term 'eligible point' means any point in the United States—

"(A) which was defined as an eligible point under this section as in effect before October 1, 1988;

"(B) which received scheduled air transportation at any time after January 1, 1990; and

"(C) which is not listed in the Department of Transportation Orders 89-9-37 and 89-12-52 as being a point no longer eligible for compensation under this section.

"(2) LIMITATION ON USE OF PER PASSENGER SUBSIDY.—The Secretary may not determine that a point described in paragraph (1) is not an eligible point on the basis of the per passenger subsidy at the point or on any other basis not specifically set forth in this section.".

(b) FUNDING.—

(1) IN GENERAL.—Section 419 of such Act is amended by redesignating subsection (l), and any reference thereto, as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) FUNDING.—

"(1) CONTRACT AUTHORITY.—The Secretary is authorized to enter into agreements and to incur obligations from the Airport and Airway Trust Fund for the payment of compensation under this section. Approval by the Secretary of such an agreement shall be deemed a contractual obligation of the United States for payment of the Federal share of such compensation.

"(2) AMOUNTS AVAILABLE.—There shall be available to the Secretary from the Airport and Airway Trust Fund to incur obligations under this section $38,600,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998. Such amounts shall remain available until expended.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1991.

(c) CONFORMING AMENDMENTS.—Section 333 of Public Law 100-457 and section 325(a) of Public Law 101-164 are repealed.

SEC. 9114. STATE BLOCK GRANT PILOT PROGRAM.

Section 534 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2227) is amended—

(1) in subsection (a) by striking "1991" and inserting "1992"; and

(2) in subsection (d) by striking "not later than 90 days before its scheduled termination" and inserting "not later than January 31, 1992".

SEC. 9115. AUXILIARY FLIGHT SERVICE STATION PROGRAM.

(a) GENERAL RULE.—The Secretary of Transportation shall develop and implement a system of manned auxiliary flight service stations. The auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. Auxiliary flight service stations shall be located in areas of unique weather or operational conditions which are critical to the safety of flight.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall report to Congress with the plan and schedule for implementation of this section.

SEC. 9116. AIRPORT AND AIRWAY IMPROVEMENTS FOR THE VIRGIN ISLANDS.

(a) AIR SPACE STUDY.—The Administrator of the Federal Aviation Administration shall conduct an air space study of the Caribbean and Miami air traffic control regions for the purpose of determining methods of improving air safety and report to Congress the results of such study.

(b) OPERATIONS OF AIRPORT TOWERS FOR ST. THOMAS AND ST. CROIX.—The Administrator may not enter into contracts with private persons for operation of the airport control towers for St. Thomas and St. Croix, Virgin Islands, before the 30th day following the date on which a report is submitted to Congress under subsection (a).

(c) REPLACEMENT OF RADAR FACILITIES FOR ST. THOMAS.—The Administrator shall take such action as may be necessary to ensure that the radar facilities for the airport on St. Thomas, Virgin Islands, which were destroyed by Hurricane Hugo are replaced and operational by the 120th day following the date of the enactment of this Act.

SEC. 9117. ENGINE CONDITION MONITORING SYSTEMS.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the potential use of engine condition monitoring systems on aircraft. In conducting such study, the Administrator shall evaluate—

(1) the availability of technology for such systems;

(2) the capabilities of such systems in terms of enhancing safety and reducing maintenance costs associated with civil and military aircraft;

(3) the commercial viability of developing computer software to enable maintenance workers to efficiently use data gathered by such systems;

(4) the costs and benefits of using such systems as compared to engine fault detection methods which rely on the use of data relating to historical performance and statistical failure;

(5) the types of aircraft engine failures which may be prevented by using such systems; and

(6) the operational reliability of such systems.

(b) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted pursuant to this section together with such legislative and administrative recommendations as the Administrator considers appropriate.

SEC. 9118. PROCUREMENT AUTHORITY.

(a) IN GENERAL.—Section 303 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1344) is amended to read as follows:

"SEC. 303. PROCUREMENT AUTHORITY.

"(a) ACQUISITION AND DISPOSAL OF PROPERTY.—Subject to subsection (b), the Administrator, on behalf of the United States, is authorized, where appropriate—

"(1) within the limits of available appropriations made by the Congress therefor, to acquire by purchase, condemnation, lease for a term not to exceed 20 years, or otherwise, personal property or services and real property or interests therein, including, in the case of air navigation facilities (including airports) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith;

"(2) for adequate compensation, by sale, lease, or otherwise, to dispose of any real or personal property or interest therein; except that, other than for airport and airway property and technical equipment used for the special purposes of the Federal Aviation Administration, such disposition shall be made in accordance with the Federal Property and Administrative Services Act of 1949; and

"(3) to construct, improve, or renovate laboratories and other test facilities and to purchase or otherwise acquire real property required therefor.

"(b) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—

"(1) ACQUISITIONS BY CONDEMNATION.—Any acquisition by condemnation under subsection (a) may be made in accordance with the provision of the Act of August 1, 1888 (40 U.S.C. 257; 25 Stat. 357), the Act of February 26, 1931 (40 U.S.C. 258a-258e-1; 46 Stat. 1421), or any other applicable Act; except that, in the case of condemnations of easements through or other interests in airspace, in fixing condemnation awards, consideration may be given to the reasonable probably future use of the underlying land.

"(2) ACQUISITIONS OF PUBLIC BUILDINGS.—The Administrator may, under subsection (a) construct or acquire by purchase, condemnation, or lease a public building, or interest in a public building (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612)) only under a delegation of authority from the Administrator of General Services.

"(c) PROCUREMENT PROCEDURES.—In procuring personal property or services and real property and interests therein under subsection (a), the Administrator may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

"(d) SOLE SOURCE APPROVAL BY ADMINISTRATOR.—For procurements by the Federal Aviation Administration, the Administrator

shall be the senior procurement executive referred to in paragraph (3) of section 16 of Office of Federal Procurement Policy Act (41 U.S.C. 414) for the purposes of approving the justification for the use of noncompetitive procedures required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii)).

"(e) MULTIYEAR SERVICE CONTRACTS.—

"(1) IN GENERAL.—Notwithstanding section 1341(a)(1)(B) of title 31, United States Code, the Administrator may enter into contracts for periods of not more than 5 years for the following types of services (and items of supply related to such services) for which funds would otherwise be available for obligation only within the fiscal year for which appropriated—

"(A) operation, maintenance, and support of facilities and installations;

"(B) operation, maintenance, or modification of aircraft, vehicles, and other highly complex equipment;

"(C) specialized training necessitating high quality instructor skills (for example, pilot and aircrew members; foreign language training); and

"(D) base services (for example, ground maintenance, in-plane refueling; bus transportation; refuse collection and disposal).

"(2) FINDINGS.—The Administrator may enter into a contract described in paragraph (1) only if the Administrator finds that—

"(A) there will be a continuing requirement for the services consonant with current plans for the proposed contract period;

"(B) the furnishing of such services will require a substantial initial investment in plant or equipment, or the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized workforce; and

"(C) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

"(3) GUIDANCE PRINCIPLES.—In entering into contracts described in paragraph (1), the Administrator shall be guided by the following principles:

"(A) The portion of the cost of any plant or equipment amortized as a cost of contract performance should not exceed the ratio between the period of contract performance and the anticipated useful commercial life of such plant or equipment. Useful commercial life, for this purpose, means the commercial utility of the facilities rather than the physical life thereof, the due consideration given to such factors as location of facilities, specialized nature thereof, and obsolescence.

"(B) Consideration shall be given to the desirability of obtaining an option to renew the contract for a reasonable period not to exceed 3 years, at prices not to include charges for plant, equipment, and other nonrecurring costs, already amortized.

"(C) Consideration shall be given to the desirability of reserving in the Federal Aviation Administration the right, upon payment of the un-amortized portion of the cost of the plant or equipment, to take title thereto under appropriate circumstances.

"(4) TERMINATION.—In the event funds are not made available for the continuation of a contract described in paragraph (1) into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of services concerned, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(f) MULTIYEAR PROPERTY ACQUISITION CONTRACTS.—

"(1) IN GENERAL.—Notwithstanding section 1341(a)(1)(B) of title 31, United States Code, to the extent that funds are otherwise available for obligation, the Administrator may make multiyear contracts (other than contracts described in paragraph (6)) for the purchase of property, whenever the Administrator finds—

"(A) that the use of such a contract will promote the safety or efficiency of the National Airspace System and will result in reduced total costs under the contract;

"(B) that the minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities;

"(C) that there is a reasonable expectation that throughout the contemplated contract period the Administrator will request funding for the contract at the level required to avoid contract cancellation;

"(D) that there is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive; and

"(E) that the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

"(2) REGULATIONS.—

"(A) GENERAL RULE.—The Administrator shall issue regulations for acquisition of property under this subsection to promote the use of multiyear contracting as authorized by paragraph (1) in a manner that will allow the most efficient use of multiyear contracting.

"(B) CANCELLATION PROVISIONS.—The regulations issued under this paragraph may provide for cancellation provisions in multiyear contracts described in paragraph (1) to the extent that such provisions are necessary and in the best interests of the United States. Such cancellation provisions may include consideration of both recurring and nonrecurring costs of the contractor associated with the production of the items to be delivered under the contract.

"(C) BROADENING INDUSTRIAL BASE.—In order to broaden the aviation industrial base, the regulations issued under this paragraph shall provide that, to the extent practicable—

"(i) multiyear contracting under paragraph (1) shall be used in such a manner as to seek, retain, and promote the use under such contracts of companies that are subcontractors, vendors, or suppliers; and

"(ii) upon accrual of any payment or other benefit under such a multiyear contract to any subcontract, vendor, or supplier company participating in such contractor, such payment or benefit shall be delivered to such company in the most expeditious manner practicable.

"(D) PROTECTION OF FEDERAL INTERESTS.—The regulations issued under this paragraph shall also provide that, to the extent practicable, the administration of this subsection, and of the regulations issued under this subsection, shall not be carried out in a manner to preclude or curtail the existing ability of the Federal Aviation Administration to—

"(i) provide for competition in the production of items to be delivered under such a contract; or

"(ii) provide for termination of a prime contract the performance of which is deficient with respect to cost, quality, or schedule.

"(3) SPECIAL RULE FOR CONTRACTS WITH HIGH CANCELLATION CEILING.—Before any contract described in paragraph (1) that contains a clause setting forth a cancellation ceiling in excess of $100,000,000 may be awarded, the Administrator shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(4) ADVANCE PROCUREMENT.—Contracts made under this subsection may be used for the advance procurement of components, parts, and materials necessary to the manufacture of equipment to be used in the National Airspace System, and contracts may be made under this subsection for such advance procurement, if feasible and practicable, in order to achieve economic-lot purchases and more efficient production rates.

"(5) TERMINATION.—In the event funds are not made available for the continuation of a contract made under this subsection into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of property concerned, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(6) LIMITATION ON APPLICABILITY.—This subsection does not apply to contracts for the construction, alteration, or major repair or improvements to real property or contracts for the purchase of property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies.

"(7) MULTIYEAR CONTRACT DEFINED.—For the purposes of this subsection, a multiyear contract is a contract for the purchase of property or services for more than 1, but not more than 5, fiscal years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

"(8) PRICE OPTIONS.—The Administrator may incorporate into a proposed multiyear contract negotiated priced options for varying the quantities of end items to be procured over the period of the contract.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 303 is amended to read as follows:

"Sec. 303. Procurement authority.
"(a) Acquisition and disposal of property.
"(b) Special rules for acquisitions.
"(c) Procurement procedures.
"(d) Sole source approval by Administrator.
"(e) Multiyear service contracts.
"(f) Multiyear property acquisition contracts.".

SEC. 9119. EXPANDED EAST COAST PLAN.

(a) ENVIRONMENTAL IMPACT STATEMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue an environmental impact statement pursuant to the National Environmental

Policy Act of 1969 on the effects of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(b) AIR SAFETY INVESTIGATION.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall conduct an investigation to determine the effects on air safety of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the environmental impact statement and investigation conducted pursuant to this section. Such report shall also contain such recommendations for modification of the Expanded East Coast Plan as the Administrator considers appropriate or an explanation of why modification of such plan is not appropriate.

(d) IMPLEMENTATION OF MODIFICATIONS.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall implement modifications to the Expanded East Coast Plan recommended under subsection (c).

SEC. 9120. TRANSFER OF FORMAT OF GEODETIC NAVIGATION INFORMATION.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the National Oceanic and Atmospheric Administration shall complete the transfer of geodetic coordinate navigation information from NAD-27 format to NAD-83 format.

SEC. 9121. AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEARS 1993, 1994, AND 1995.

For purposes of developing the safety and capacity of the national aviation system under programs established by sections 505 and 506 of the Airport and Airway Improvement Act of 1982, there are authorized to be appropriated from the Airport and Airway Trust Fund for each of fiscal years 1993, 1994, and 1995 amounts equal to deposits into the Fund in such fiscal year as a result of any increases in aviation taxes through implementation of the amendments made to the Internal Revenue Code of 1986 by this Act.

SEC. 9122. SENSE OF CONGRESS CONCERNING APPROPRIATION LEVELS.

It is the sense of Congress that amounts appropriated and otherwise made available from the Airport and Airway Trust Fund for fiscal years 1993, 1994, and 1995 shall include—

(1) the amount of deposits made into the Fund in each such year;

(2) the amount of interest earned by the Fund in each such year; and

(3) amounts sufficient to reduce the accumulated surplus in the Fund by $1,400,000,000 in fiscal year 1993, $1,000,000,000 in fiscal year 1994, and $1,100,000,000 in fiscal year 1995.

SEC. 9123. HOLD HARMLESS BUDGETARY TREATMENT.

For fiscal years 1993, 1994, and 1995, the baselines and domestic appropriations cap shall be held harmless for the budget authority and outlays associated with spending attributable to deposits into the Airport and Airway Trust Fund as a result of any increases in the aviation taxes through implementation of the amendments made to the Internal Revenue Code of 1986 by this Act.

SEC. 9124. SEVERABILITY.

If any provision of this subtitle (including an amendment made by this subtitle), or the application thereof to any person or circumstance, is held invalid, the remainder of this subtitle and the application of such provision to other persons of circumstances shall not be affected thereby.

SEC. 9125. BUY AMERICA.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this subtitle, section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b)) for any project unless steel and manufactured products used in such project are produced in the United States.

(b) LIMITATIONS ON APPLICABILITY.—The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

(3) in the case of the procurement of facilities and equipment under the Airport and Airway Improvement Act of 1982 that (A) the cost of components and subcomponents which are produced in the United States is more than 60 percent of the cost of all components of the facility or equipment described in this paragraph, and (B) final assembly of the facility or equipment described in this paragraph has taken place in the United States; or

(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

(c) CALCULATION OF COMPONENTS COSTS.—For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

SEC. 9126. PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

If the Secretary of Transportation determines that any person intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract or grant in conjunction with the issuance of any contract made under this subtitle for a period of not less than 3 years and not more than 5 years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

SEC. 9127. RESTRICTIONS ON CONTRACT AWARDS.

No person or enterprise domiciled or operating under the laws of a foreign government may enter into a contract or subcontract made pursuant to this subtitle if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

Subtitle C—Federal Aviation Administration Research, Engineering, and Development

SEC. 9201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990".

(b) TABLE OF CONTENTS.—

SEC. 9202. AVIATION RESEARCH AUTHORIZATION OF APPROPRIATIONS.

Paragraph (2) of section 506(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by striking subparagraph (A) and all that follows through the period at the end of such paragraph and inserting the following:

"(A) for fiscal year 1991—

"(i) $131,800,000 solely for air traffic control projects and activities;

"(ii) $19,100,000 solely for air traffic control advanced computer projects and activities;

"(iii) $3,400,000 solely for navigation projects and activities;

"(iv) $9,700,000 solely for aviation weather projects and activities;

"(v) $16,500,000 solely for aviation medicine projects and activities;

"(vi) $70,100,000 solely for aircraft safety projects and activities; and

"(vii) $4,400,000 solely for environmental projects and activities; and

"(B) for fiscal year 1992—

"(i) $137,800,000 solely for air traffic control projects and activities;

"(ii) $19,100,000 solely for air traffic control advanced computer projects and activities;

"(iii) $3,400,000 solely for navigation projects and activities;

"(iv) $9,700,000 solely for aviation weather projects and activities;

"(v) $16,500,000 solely for aviation medicine projects and activities;

"(vi) $76,100,000 solely for aircraft safety projects and activities; and

"(vii) $5,400,000 solely for environmental projects and activities.

Not less than 3 percent of the funds made available under this paragraph for a fiscal year shall be available to the Administrator for making grants under section 312(g) of the Federal Aviation Act of 1958.".

SEC. 9203. WEATHER SERVICES.

Section 506(d) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(d)) is amended by striking the second sentence and inserting the following: "Expenditures for the purposes of carrying out this subsection shall be limited to $34,521,000 for fiscal year 1991 and $35,389,000 for fiscal year 1992.".

SEC. 9204. AVIATION RESEARCH GRANT AND CONSORTIUM PROGRAM.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end thereof the following new subsection:

"(g) RESEARCH GRANT AND CONSORTIUM PROGRAM.—

"(1) GENERAL AUTHORITY.—The Administrator may make grants to colleges, universities, and nonprofit research organizations (A) to conduct aviation research, and (B) to establish a research consortium, consisting of regional centers of excellence for continuing research into areas deemed by the Administrator to be required for the long-term growth of civil aviation.

"(2) APPLICATIONS.—A university, college, or nonprofit organization interested in receiving a grant under this subsection may submit to the Administrator an application for such grant. Such application shall be in such form and contain such information as the Administrator may require.

"(3) SELECTION.—The Administrator shall establish a solicitation, review, and evalua-

tion process that ensures (A) the funding under this subsection of proposals having adequate merit and relevancy to the mission of the Federal Aviation Administration, (B) an equitable geographical distribution of grant funds under this subsection, and (C) the inclusion of historically black colleges and universities and other minority institutions for funding consideration under this subsection.

"(4) RECORDS.—Each person awarded a grant under this subsection shall maintain such records as the Administrator may require as being necessary to facilitate an effective audit and evaluation of the use of grant funds.

"(5) REPORTS.—The Administrator shall make an annual report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the research grant program conducted under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(g) Research grant and consortium program.".

SEC. 9205. STUDY BY THE GENERAL ACCOUNTING OFFICE OF MULTIYEAR CONTRACTING AUTHORITY.

The Comptroller General of the United States shall conduct a study of the advisability of granting to the Administrator of the Federal Aviation Administration specific statutory authority—

(1) to lease real property or interests therein for terms not to exceed 20 years, including, in the case of air navigation facilities and airports (as such terms are defined in section 101 (8) and (9) of the Federal Aviation Act of 1958) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and in connection therewith;

(2) to procure personal property or services and real property and interests therein with procedures other than competitive procedures under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c));

(3) to serve as the senior procurement executive under section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) for the purpose of approving the justification for the use of noncompetitive procedures required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii));

(4) to let multiyear contracts for services, including the operation, maintenance, and support of facilities and installations; the operation, maintenance, and modification of aircraft, vehicles, and other highly complex equipment; specialized training necessitating high quality instructor skills; and base services; and

(5) to let multiyear contracts for the purchase of property.

The study also shall examine the implementation of section 2306 (g) and (h) of title 10, United States Code, by the Department of Defense, and shall assess the usefulness of granting similar authority to the Federal Aviation Administration. The Comptroller General shall submit a report on the results of the study, along with any comments of the Administrator of the Federal Aviation Administration, to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 6 months after the date of enactment of this Act.

SEC. 9206. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY ADMINISTRATOR.—If the Federal Aviation Administration, with the concurrence of the Secretary of Commerce and the United States Trade Representative, determines that the public interest so requires, the Administration is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made under this subtitle that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Administration shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this subtitle for which—

(1) amounts are authorized by this subtitle (including the amendments made by this subtitle) to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Administration shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Administration shall also report to the Congress on the number of contracts covered under this subtitle (including the amendments made by this subtitle) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of the Federal Aviation Administration;

(2) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(3) the term "foreign firm" means a business entity not described in paragraph (2).

Subtitle D—Aging Aircraft Safety

SEC. 9301. SHORT TITLE.

(a) SHORT TITLE.—This subtitle may be cited as the "Aging Aircraft Safety Act of 1990".

(b) TABLE OF CONTENTS.—

SEC. 9302. AGING AIRCRAFT RULEMAKING PROCEEDING.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall initiate a rulemaking proceeding for the purpose of issuing a rule to assure the continuing airworthiness of aging aircraft.

(b) INSPECTIONS AND RECORD REVIEWS.—

(1) GENERAL REQUIREMENT.—The rule issued pursuant to this section shall, at a minimum, require the Administrator to make such inspections, and conduct such reviews of maintenance and other records, of each aircraft used by an air carrier to provide air transportation as may be necessary to enable the Administrator to determine that such aircraft is in safe condition and is properly maintained for operation in air transportation.

(2) PART OF HEAVY MAINTENANCE CHECKS.—The inspections and reviews required under paragraph (1) shall be carried out as part of each heavy maintenance check of the aircraft conducted on or after the first day of the 15th year in which the aircraft is in service.

(3) APPLICABILITY OF FEDERAL AVIATION ACT.—The inspections required under paragraph (1) shall be conducted as provided in section 601(a)(3)(C) of the Federal Aviation Act of 1958.

(c) DEMONSTRATION OF STRUCTURAL AND PARTS MAINTENANCE.—The rule issued pursuant to this section shall, at a minimum, require the air carrier to demonstrate to the Administrator, as part of the inspection required by the rule, that maintenance of the aircraft's structure, skin, and other age-sensitive parts and components has been adequate and timely enough to ensure the highest degree of safety.

(d) PROCEDURES.—The rule issued pursuant to this section shall establish procedures to be followed in carrying out the inspections required by the rule.

(e) AVAILABILITY OF AIRCRAFT.—The rule issued pursuant to this section shall require the air carrier to make available to the Administrator the aircraft and such inspection, maintenance, and other records pertaining to the aircraft as the Administrator may require for carrying out reviews required by the rule.

SEC. 9303. AIRCRAFT MAINTENANCE SAFETY PROGRAMS.

Not later than 180 days after the date of the enactment of this Act, the Administrator shall establish—

(1) a program to verify that air carriers are maintaining their aircraft in accordance with maintenance programs approved by the Federal Aviation Administration;

(2) a program—

(A) to provide inspectors and engineers of the Federal Aviation Administration with training necessary for conducting auditing inspections of aircraft operated by air carriers for corrosion and metal fatigue; and

(B) to enhance participation of such inspectors and engineers in such inspections; and

(3) a program to ensure that air carriers demonstrate to the Administrator their commitment and technical competence to assure the airworthiness of aircraft operated by such carriers.

SEC. 9304. ADMINISTRATOR DEFINED.

As used in this subtitle, the term "Administrator" means the Administrator of the Federal Aviation Administration.

Subtitle E—Off Budget Treatment of Transportation Trust Funds

SEC. 9401. SHORT TITLE.

This subtitle may be cited as the "Transportation Trust Funds Off Budget Act of 1990".

SEC. 9402. FINDINGS.

Congress finds that—

(1) social and economic security are the cornerstones of a stronger and more productive United States;

(2) the Highway Trust Fund and the Airport and Airway Trust Fund are self-supporting as amounts in such funds are derived through fees paid by users of the Nation's transportation systems;

(3) on-budget treatment of the Highway Trust Fund and the Airport and Airway Trust Fund—

(A) deceives the public by using surpluses in such funds to understate the real budget deficit;

(B) undermines the integrity of the budget process by understating shortfalls in general revenues;

(C) damages needed highway, transit, and aviation programs; and

(D) fosters inefficiency and waste as limitations force down obligations from such funds; and

(4) failure to provide off-budget treatment for the Highway Trust Fund and the Airport and Airway Trust Fund impairs the Nation's economic productivity and growth and ignores the Nation's infrastructure needs.

SEC. 9403. EFFECTIVE DATE.

Section 9404 of this Act (including the amendments made by such section) shall take effect on October 1, 1995.

SEC. 9404. BUDGETARY TREATMENT OF HIGHWAY TRUST FUND, AIRPORT AND AIRWAY TRUST FUND, INLAND WATERWAYS TRUST FUND, AND HARBOR MAINTENANCE TRUST FUND.

(a) TREATMENT OF TRUST FUND OPERATIONS.—

(1) IN GENERAL.—The receipts and disbursements of the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund allocable to the transportation-related operations of each such Trust Fund—

(A) shall not be included in the totals of—

(i) the budget of the United States Government as submitted by the President, or

(ii) the congressional budget (including allocations of budget authority and outlays provided therein), and

(B) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

(2) TRANSPORTATION-RELATED OPERATIONS DEFINED.—For purposes of paragraph (1), the receipts and disbursements allocable to the transportation-related operations—

(A) of the Highway Trust Fund are the disbursements, and the receipts allocable to such disbursements, under—

(i) paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Highway Trust Fund for the Federal-aid highway program); and

(ii) paragraph (3) of section 9503(e) of such Code (relating to expenditures from the Mass Transit Account); and

(B) of the Airport and Airway Trust Fund are the disbursements, and the receipts allocable to such disbursements, under paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from the Airport and Airway Trust Fund for the airport and airway program);

(C) of the Inland Waterways Trust Fund are the disbursements, and the receipts allocable to such disbursements, under section 9506(c) of the Internal Revenue Code of 1986 (relating to the expenditures from the Inland Waterways Trust Fund for navigation construction and rehabilitation projects on inland waterways); and

(D) of the Harbor Maintenance Trust Fund are the disbursements, and the receipts allocable to such disbursements, under paragraphs (1) and (2) of section 9505(c) of the Internal Revenue Code of 1986 (relating to the expenditures from the Harbor Maintenance Trust Fund for operation and maintenance of harbors and inland harbors and for payments of rebates of certain tolls and charges).

(b) ADJUSTMENTS OF AUTHORIZATIONS AND APPROPRIATIONS OUT OF TRUST FUND.—The Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201-2227) is further amended by adding at the end the following new section:

"SEC. 536. ADJUSTMENTS OF AUTHORIZATIONS AND APPORTIONMENTS.

"(a) ESTIMATES OF UNFUNDED AVIATION AUTHORIZATIONS AND NET AVIATION RECEIPTS.—Not later than March 31 of each year, the Secretary, in consultation with the Secretary of the Treasury, shall estimate—

"(1) the amount which would (but for this section) be the unfunded aviation authorizations at the close of the next fiscal year, and

"(2) the net aviation receipts for the 24-month period beginning at the close of such fiscal year.

"(b) PROCEDURE WHERE THERE IS EXCESS UNFUNDED AVIATION AUTHORIZATIONS.—If the Secretary determines for any fiscal year that the amount described in subsection (a)(1) exceeds the amount described in subsection (a)(2), the Secretary shall determine the amount of such excess.

"(c) ADJUSTMENT OF AUTHORIZATIONS WHERE UNFUNDED AUTHORIZATIONS EXCEED 2 YEARS RECEIPTS.—

"(1) DETERMINATION OF PERCENTAGE.—If the Secretary determines that there is an excess referred to in subsection (b), the Secretary shall determine the percentage which—

"(A) such excess, is of

"(B) the total of the amounts authorized to be appropriated and the amounts available for obligation from the Airport and Airway Trust Fund for the next fiscal year.

"(2) ADJUSTMENT OF AUTHORIZATIONS.—If the Secretary determines a percentage under paragraph (1), each amount authorized to be appropriated or available for obligation from the Airport and Airway Trust Fund for the next fiscal year shall be reduced by such percentage.

"(d) AVAILABILITY OF AMOUNTS PREVIOUSLY WITHHELD.—

"(1) ADJUSTMENT OF AUTHORIZATIONS.—If, after an adjustment has been made under subsection (c)(2), the Secretary determines that the amount described in subsection (a)(1) does not exceed the amount described in subsection (a)(2) or that the excess referred to in subsection (b) is less than the amount previously determined, each amount authorized to be appropriated or available for obligation that was reduced under subsection (c)(2) shall be increased, by an equal percentage, to the extent the Secretary determines that it may be so increased without causing the amount described in subsection (a)(1) to exceed the amount described in subsection (a)(2) (but not by more than the amount of the reduction).

"(2) APPORTIONMENT.—The Secretary shall apportion amounts made available for apportionment by reason of paragraph (1).

"(3) PERIOD OF AVAILABILITY.—Any funds apportioned pursuant to paragraph (2) shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to paragraph (2).

"(e) DEFINITIONS.—For purposes of this section—

"(1) UNFUNDED AVIATION AUTHORIZATIONS.—The term 'unfunded aviation authorization' means, at any time, the excess (if any) of—

"(A) the total amount authorized to be appropriated or available for obligation from the Trust Fund which has not been appropriated or obligated, over

"(B) the amount available in the Trust Fund at such time to make such appropriation or to liquidate such obligations (after all other unliquidated obligations at such time which are payable from the Trust Fund have been liquidated).

"(2) NET AVIATION RECEIPTS.—The term 'net aviation receipts' means, with respect to any period, the excess of—

"(A) the receipts (including interest) of the Trust Fund during such period, over

"(B) the amounts to be transferred during such period from the Trust Fund under section 9502(d) of the Internal Revenue Code of 1986 (other than paragraph (1) thereof).

"(f) REPORTS.—Any estimate under subsection (a) and any determination under subsection (b), (c), or (d) shall be reported by the Secretary to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Public Works and Transportation of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.".

(c) CONFORMING AMENDMENTS AND LIMITATIONS TO THE BUDGET PROCESS.—

(1) EXEMPTION FROM SEQUESTRATION ORDER.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(A) by inserting after the undesignated paragraph relating to administration of territories the following new undesignated paragraph:

"Airport and Airway Trust Fund (69-8106-0-7-402; 69-8107-0-7-402; 69-8108-0-7-402; 69-8104-0-7-402);"; and

(B) by inserting after the undesignated paragraph relating to higher education facilities the following new undesignated paragraph:

"Highway Trust Fund (20-8102-0-7-401; 69-8019-0-7-401; 69-8020-0-7-401; 69-8099-0-7-401);".

(2) TREATMENT OF TRUST FUND RECEIPTS FOR DEFICIT CALCULATION PURPOSES.—Section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the second sentence the following new sentences: "In calculating the deficit for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 and in calculating the excess deficit for purposes of sections 251 and 252 of such Act of 1985 for any fiscal year, the receipts of the Highway Trust Fund (including the Mass Transit Account), the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund allocable to the transportation-related operations of each such Trust Fund for such fiscal year shall not be included in total revenues for such fiscal year, and the disbursements allocable to the transportation-related oper-

ations of each such Trust Fund for such fiscal year shall not be included in total budget outlays for such fiscal year. For purposes of the preceding sentence, the receipts and disbursements allocable to the transportation-related operations of such Trust Funds are the disbursements, and the receipts allocable to such disbursements, described in section 9404(a)(2) of the Transportation Trust Funds Off Budget Act of 1990 and paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from the Airport and Airway Trust Fund for the airport and airway program).".

(3) LIMITATIONS ON CONGRESSIONAL BUDGET PROCESS.—Section 310 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following new subsection:

"(h) LIMITATION ON CHANGES TO THE HIGHWAY TRUST FUND AND THE AIRPORT AND AIRWAY TRUST FUND.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider—

"(1) any concurrent resolution on the budget for any fiscal year, or any amendment thereto or conference report thereon, that assumes or contains in the aggregate totals or functional categories provided for by section 301(a) any amount of transportation-related budget authority or transportation-related budget outlays from the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, or the Harbor Maintenance Trust Fund;

"(2) any concurrent resolution on the budget for any fiscal year, or any amendment thereto or conference report thereon, that contains reconciliation instructions with respect to transportation-related operations of the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, or the Harbor Maintenance Trust Fund, or

"(3) any reconciliation bill or reconciliation resolution reported pursuant to a concurrent resolution on the budget agreed to under section 301 or 304, or a resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, or any amendment thereto or conference report thereon, that contains recommendations with respect to transportation-related operations of the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, or the Harbor Maintenance Trust Fund.".

(4) CONFORMING ENFORCEMENT PROCEDURES.—Sections 301(c), 301(d), 302(a), 302(b), 302(c), 302(f), 303(a), 311(a), and 402 of the Congressional Budget and Impoundment Control Act of 1974 shall not apply to any bill, resolution, or amendment (including a conference report thereon) which provides budget authority, contract authority, or budget outlays from the Highway Trust Fund or the Airport and Airway Trust Fund.

SEC. 9405. SENSE OF CONGRESS THAT TRANSPORTATION TAXES SHOULD BE DEDICATED TO THE TRANSPORTATION TRUST FUNDS.

(a) FINDINGS.—Congress finds that—

(1) highway motor fuel taxes and aviation user taxes have in the past been dedicated to the Highway and Airport and Airway Trust Funds and have consequently been used exclusively for the development of the surface transportation and aviation systems;

(2) extraordinary budget pressures have led to consideration of the need for temporary, 5-year highway motor fuels taxes and aviation user taxes for deficit reduction in order to help resolve the budget crisis; and

(3) if any portion of these taxes is used for deficit reduction, this use should be temporary so that we can return as soon as possible to the dedicated user fee principle in order to ensure fairness to the highway and aviation users and to ensure that needed infrastructure improvements are made.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress reaffirms the principle that all highway motor fuel taxes and aviation user taxes should be deposited in the Highway and Airport and Airway Trust Funds, respectively, and all amounts in these Trust Funds should be made available for obligation for surface transportation and aviation programs, respectively, and not for deficit reduction; and

(2) in the event that any portion of these taxes is used for deficit reduction during the 5-year period beginning with fiscal year 1991, the Congress should return to the dedicated user fee principle as soon as possible but no later than the end of fiscal year 1995.

Subtitle F—Water Resources

SEC. 9501. ENVIRONMENTAL PROTECTION AGENCY FEES.

(a) ASSESSMENT AND COLLECTION.—The Administrator of the Environmental Protection Agency shall, by regulation, assess and collect fees and charges for services and activities carried out pursuant to laws administered by the Environmental Protection Agency.

(b) AMOUNT OF FEES AND CHARGES.—Fees and charges assessed pursuant to this section shall be in such amounts as may be necessary to ensure that the aggregate amount of fees and charges collected pursuant to this section—

(1) in fiscal year 1991 is not less than $42,000,000; and

(2) in each of fiscal years 1992, 1993, 1994, and 1995 is not less than $53,000,000.

(c) LIMITATION ON FEES AND CHARGES FOR ACTIVITIES UNDER FWPCA.—The maximum aggregate amount of fees and charges which may be assessed and collected pursuant to this section in a fiscal year for services and activities carried out pursuant to the Federal Water Pollution Control Act is $10,000,000.

(d) USE OF FEES.—Fees and charges collected pursuant to this section shall be deposited into a special account for environmental services in the Treasury of the United States. Subject to appropriations Acts such funds shall be available to the Environmental Protection Agency to carry out the activities for which such fees and charges are collected. Such funds shall remain available until expended.

SEC. 9502. STUDY OF AND LIMITATION ON CERTAIN CORPS OF ENGINEERS' FEES.

(a) STUDY AND REPORT.—The Secretary of the Army shall conduct a study of fees collected in connection with the processing and issuance of permits and with any other form of approval required pursuant to section 404 of the Federal Water Pollution Control Act or section 10 of the Rivers and Harbors Appropriations Act of 1899. The Secretary shall transmit to Congress a report on the results of such study not later than 60 days after the date of the enactment of this Act.

(b) LIMITATION ON ESTABLISHMENT AND INCREASES OF CERTAIN FEES.—The Secretary of the Army shall not increase the amount of any fee described in subsection (a) or establish any new such fee except as subsequently provided by law.

TITLE X—SCIENCE, SPACE, AND TECHNOLOGY

Subtitle A—User Fees

SEC. 10001. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION USER FEES.

(a) AMENDMENTS.—Section 409 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 is amended—

(1) in subsection (a), by striking "archived by the National Environmental Satellite, Data, and Information Service of" and inserting in lieu thereof "and information and products derived therefrom collected or archived by";

(2) in subsection (b)(1)—

(A) by striking "provide data" and inserting in lieu thereof "provide materials"; and

(B) by striking "data is" and inserting in lieu thereof "materials are";

(3) in subsection (b)(2), by striking "data" both places it appears and inserting in lieu thereof "materials";

(4) in subsection (b), by inserting at the end the following new paragraph:

"(3) The Secretary may waive the assessment of fees authorized under subsection (a) as necessary to continue to provide weather warnings, watches, forecasts, and similar products and services essential to the mission of the National Oceanic Atmospheric Administration.";

(5) by amending subsection (d)(1) to read as follows:

"(1) The initial schedule of fees established by the National Environmental Satellite, Data, and Information Service before the date of enactment of the Omnibus Budget Reconciliation Act of 1990 shall remain in effect for the 3-year period beginning on the date that the fees under its schedule take effect.";

(6) in subsection (e), by striking "shall be available to the National Environmental Satellite, Data, and Information Service for expenses incurred in the operation of its data archive centers" and inserting in lieu thereof "by the National Environmental Satellite, Data, and Information Service shall be available to the National Environmental Satellite, Data, and Information Service for expenses incurred in its operation"; and

(7) in subsection (g), by inserting ", including the authority of the Secretary under section 1307 of title 44, United States Code" after "Atmospheric Administration".

(b) EFFECT OF AMENDMENTS.—(1) The increase in revenues to the United States attributable to the amendments made by subsection (a) shall not exceed—

(A) $1,000,000 for fiscal year 1991;

(B) $2,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995; and

(C) a cumulative total of $8,000,000 for fiscal years 1991 through 1995.

(2) Increases in revenues to the United States described in paragraph (1) shall be achieved by the Secretary of Commerce through equitable increases in fees for services offered by the various programs of the National Oceanic and Atmospheric Administration.

(3) The Secretary of Commerce shall notify the Congress of any changes in fee schedules under section 409 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 before such changes take effect.

SEC. 10002. NUCLEAR WASTE FUND.

Section 302(a)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(1)) is amended by adding at the end the following: "Such contracts shall also provide for payment to the Secretary of an additional amount that, in combination with the fee,

reflects the fair market value of the services for which expenditures are authorized under subsection (d). The aggregate of the additional amounts required by the previous sentence shall equal at least $5,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995, but shall not exceed—

"(A) $6,000,000 for fiscal year 1992;

"(B) $7,000,000 for fiscal year 1993;

"(C) $8,000,000 for fiscal year 1994; and

"(D) $9,000,000 for fiscal year 1995.".

SEC. 10003. RADON MEASUREMENT PROFICIENCY.

(a) RESEARCH.—(1) The Administrator of the Environmental Protection Agency (hereafter in this section referred to as the "Administrator") shall, in conjunction with other Federal agencies, conduct research to develop, test, and evaluate radon and radon progeny measurement methods and protocols. The purpose of such research shall be to assess the ability of those methods and protocols to accurately assess exposure to radon progeny. Such research shall include—

(A) conducting comparisons among radon and radon progeny measurement techniques, including techniques to measure attached and unattached radon progeny and the equilibrium of radon progeny to radon;

(B) developing measurement protocols for different building types under varying operating conditions; and

(C) comparing the exposures estimated by stationary monitors and protocols to those measured by personal monitors.

(2) The Administrator shall develop and issue guidance documents that—

(A) provide information on the results of research conducted under paragraph (1); and

(B) describe model State radon measurement and mitigation programs and include an evaluation of existing State programs and State controls that are designed to provide adequate assurance to the homeowner that radon measurements are accurate.

(b) MANDATORY PROGRAM.—(1) The Administrator shall establish a mandatory program requiring that—

(A) any product offered for sale, or device used in connection with a service offered to the public, for the measurement of radon meets minimum performance criteria; and

(B) any operator of a device, or person employing a technique, used in connection with a service offered to the public for the measurement of radon meets a minimum level of proficiency.

Such program shall include procedures for ordering the recall of any product sold for the measurement of radon which does not meet minimum performance criteria under subparagraph (A), for ordering the discontinuance of any service offered to the public for the measurement of radon which does not meet minimum performance criteria under subparagraph (A), and establish adequate quality assurance requirements for each company offering radon measurement services to the public to follow.

(c) USER FEE.—The Administrator shall establish a schedule of user fees for persons seeking certification under the program established under subsection (b), with the amount of such fees designed to cover the operating and administrative costs of the Environmental Protection Agency for carrying out such program with respect to such persons.

(d) USE OF FUNDS.—Amounts received for user fees under subsection (c) shall be deposited in a Radon Service Account established in the Treasury of the United States for use by the Administrator, to the extent provided in appropriations Acts, in carrying out the program established under subsections (a) and (b).

(e) REPORT TO CONGRESS.—The Administrator, in consultation with other Federal agencies, shall evaluate current efforts to promote radon testing, and shall report to Congress by October 1, 1991 on ways to improve the effectiveness of alternative strategies for promoting such testing, including consideration of—

(1) grants to support development of radon testing strategies by States;

(2) financial incentives;

(3) disclosure regarding radon during real estate transactions;

(4) public education; and

(5) mandatory testing, especially for federally-related properties.

In preparing this report, the Administrator shall consult with concerned parties, including public interest groups, health officials, the radon industry, realtors, home builders, and States.

SEC. 10004. DEPARTMENT OF ENERGY USER FEE STUDY.

The Secretary of Energy shall undertake a study of the Department of Energy's user fee assessment and collection practices, and shall make recommendations on ways to—

(1) reasonably increase revenues to the United States through user fees, consistent with the mission of the Department;

(2) assess user fees—

(A) for proprietary users on the basis of fair market value principles; and

(B) for nonproprietary users on the basis of full recovery of operational costs; and

(3) improve user fee collection practices.

The Secretary of Energy shall submit a report containing such findings and recommendations to the Congress within 6 months after the date of enactment of this Act. There are authorized to be appropriated to the Secretary of Energy for carrying out this section not to exceed $500,000 for fiscal year 1991, from funds otherwise available to the Department of Energy.

SEC. 10005. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION USER FEE STUDY.

The Administrator of the National Aeronautics and Space Administration shall undertake a study of the National Aeronautics and Space Administration's user fee assessment and collection practices, and shall make recommendations on ways to—

(1) reasonably increase revenues to the United States through user fees consistent with the National Aeronautics and Space Administration's mission;

(2) assess user fees on the basis of fair market value principles; and

(3) improve user fee collection practices.

The Administrator shall submit a report containing such findings and recommendations to the Congress within 6 months after the date of enactment of this Act. There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration for carrying out this section not to exceed $500,000 for fiscal year 1991, from funds otherwise available to the National Aeronautics and Space Administration.

SEC. 10006. DEPARTMENT OF TRANSPORTATION COMMERCIAL SPACE LAUNCH STUDY.

The Secretary of Transportation shall undertake a study of options for the assessment and collection of licensing fees under the Commercial Space Launch Act (49 U.S.C. App. 2601 et seq.) and shall make recommendations on ways to—

(1) offset outlays required by the Government to carry out the Commercial Space Launch Act;

(2) assess fees on the basis of revenues generated by activities carried out pursuant to a license issued by the Secretary under such Act; and

(3) maintain the competitiveness of the commercial space launch industry.

The Secretary shall submit a report containing such findings and recommendations to the Congress within 6 months after the date of enactment of this Act. There are authorized to be appropriated to the Secretary of Transportation for carrying out this section not to exceed $500,000 for fiscal year 1991, from funds otherwise available to the Department of Transportation.

SEC. 10007. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY USER FEE STUDY.

The Secretary of Commerce shall undertake a study of the National Institute of Standards and Technology's user fee assessment and collection practices and shall make recommendations on ways to—

(1) reasonably increase revenues to the United States through user fees, consistent with the mission of the Institute;

(2) offset outlays incurred by the Government in administering the Institute's contract and award programs;

(3) assess user fees—

(A) for proprietary users on the basis of fair market value principles; and

(B) for nonproprietary users on the basis of full recovery of operational costs; and

(4) improve user fee collection practices.

The Secretary of Commerce shall submit a report containing such findings and recommendations to the Congress within 6 months after the date of enactment of this Act. There are authorized to be appropriated to the Secretary of Commerce for carrying out this section not to exceed $500,000 for fiscal year 1991, from funds otherwise available to the National Institute of Standards and Technology.

Subtitle B—Aviation Safety and Capacity Expansion

SEC. 10101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Aviation Safety and Capacity Expansion Act of 1990".

(b) TABLE OF CONTENTS.—

SEC. 10102. CONSTRUCTION OF FIREFIGHTING TRAINING FACILITIES.

Section 503(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

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

"(D) any acquisition of land for, or work involved to construct, a burn area training structure on or off the airport for the purpose of providing live fire drill training for aircraft rescue and firefighting personnel required to receive such training by a regulation of the Department of Transportation, including basic equipment and minimum structures to support such training in accordance with standards of the Federal Aviation Administration.".

SEC. 10103. DECLARATION OF POLICY.

Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a)) is amended—

(1) in paragraph (5) by inserting ", including as they may be applied between category and class of aircraft" after "discriminatory practices"; and

(2) in paragraph (13) by inserting "and should not unjustly discriminate between categories and classes of aircraft" after "attempted".

SEC. 10104. AIRPORT IMPROVEMENT PROGRAM.

Section 505 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204) is amended—

(1) in subsection (a) by striking "'13,816,700,000" and inserting '$13,916,700,000"; and

(2) in subsection (b) by striking "September 30, 1987" and inserting "September 30, 1992".

SEC. 10105. AIRWAY IMPROVEMENT PROGRAM.

(a) RENAMING OF AIRWAY PLAN.—Section 504(b)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2203(b)(1)) is amended by inserting after the second sentence the following new sentence: "For fiscal year 1991 and thereafter, the revised plan shall be known as the 'Airway Capital Investment Plan'.".

(b) AIRWAY FACILITIES AND EQUIPMENT.—The first sentence of section 506(a)(1) of such Act (49 U.S.C. App. 2205(a)(1)) is amended by striking "September 30, 1981," and all that follows through the period and inserting the following: "September 30, 1990, aggregate amounts not to exceed $2,500,000,000 for fiscal year 1991 and $5,500,000,000 for the fiscal years ending before October 1, 1992.".

SEC. 10106. FAA OPERATIONS.

Section 106 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—There is authorized to be appropriated for operations of the Administration $4,088,000,000 for fiscal year 1991 and $4,412,600,000 for fiscal year 1992.".

SEC. 10107. OPERATION AND MAINTENANCE OF AVIATION SYSTEM.

(a) ELIMINATION OF PENALTY.—Section 506(c)(3)(B)(i) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(c)(3)(B)(i)) is amended—

(1) by inserting "and" after "1989"; and

(2) by striking "$3,770,000,000" and all that follows through "1992,".

(b) FUNDING.—Section 506(c) of such Act (49 U.S.C. App. 2205(c)) is amended by adding at the end the following new paragraph:

"(4) FISCAL YEARS 1991-1992.—The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for each of fiscal years 1991 and 1992 may not exceed—

"(A) 75 percent of the amount of funds made available under section 505, subsections (a) and (b) of this section, and section 106(k) of title 49, United States Code, for such fiscal year; less

"(B) the amount of funds made available under section 505 and subsections (a) and (b) of this section for such fiscal year.".

SEC. 10108. WEATHER SERVICE.

The second sentence of section 506(d) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(d)) is amended—

(1) by striking "and" the first place it appears and inserting a comma; and

(2) by inserting before the period the following: ", $34,521,000 for fiscal year 1991, and $35,389,000 for fiscal year 1992".

SEC. 10109. MILITARY AIRPORT PROGRAM.

(a) DECLARATION OF POLICY.—Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a)) is further amended—

(1) by striking "and" at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and"; and

(3) by adding at the end the following:

"(14) special emphasis should be placed on the conversion of appropriate former military air bases to civil use and on the identification and improvement of additional joint-use facilities.".

(b) SET-ASIDE.—Section 508(d) of such Act (49 U.S.C. App. 2204(d)) is amended by striking paragraph (5) and inserting the following:

"(5) MILITARY AIRPORT SET-ASIDE.—Not less than 1.5 percent of the funds made available under section 505 in each of fiscal years 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (f) for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

"(6) REALLOCATION.—If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), (4), or (5) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.".

(c) DESIGNATION OF FORMER MILITARY AIRPORTS.—Section 508 of such Act is further amended by adding at the end the following new subsection:

"(f) DESIGNATION OF CURRENT OR FORMER MILITARY AIRPORTS.—

"(1) DESIGNATION.—The Secretary shall designate not more than 8 current or former military airports for participation in the grant program established under subsection (d)(5) and this subsection. At least 2 such airports shall be designated within 6 months after the date of the enactment of this subsection and the remaining airports shall be designated for participation no later than September 30, 1992.

"(2) SURVEY.—The Secretary shall conduct a survey of current and former military airports to identify which ones have the greatest potential to improve the capacity of the national air transportation system. The survey shall also identify the capital development needs of such airports in order to make them part of the national air transportation system and shall identify which capital development needs are eligible for grants under section 505. The survey shall be completed by September 30, 1991.

"(3) LIMITATION.—In selecting airports for participation in the program established under subsection (d)(5) and this subsection and in conducting the survey under paragraph (2), the Secretary shall consider only those current or former military airports whose conversion in whole or in part to civilian commercial or reliever airport as part of the national air transportation system would enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

"(4) PERIOD OF ELIGIBILITY.—An airport designated by the Secretary under this subsection shall remain eligible to participate in the program under subsection (d)(5) and this subsection for the 5 fiscal years following such designation. An airport that does not attain a level of enplaned passengers during such 5 fiscal year period which qualifies it as a small hub airport as defined as of January 1, 1990, or reliever airport may be redesignated by the Secretary for participation in the program for such additional fiscal years as may be determined by the Secretary.

"(5) ADDITIONAL FUNDING.—Notwithstanding the provisions of section 513(b), not to exceed $5,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for any fiscal year may be used by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of terminal building facilities, including terminal gates used by aircraft for enplaning and deplaning revenue passengers. Under no circumstances shall any gates constructed, improved, or repaired with Federal funding under this paragraph be subject to long-term leases for periods exceeding 10 years or majority in interest clauses.".

SEC. 10110. PASSENGER FACILITY CHARGES.

Section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513) is amended—

(1) in subsection (a) by inserting "except as provided in subsection (e) and" before "except that"; and

(2) by adding at the end the following new subsection:

"(e) AUTHORITY FOR IMPOSITION OF PASSENGER FACILITY CHARGES.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, the Secretary may grant a public agency which controls a commercial service airport authority to impose a fee of $1.00, $2.00, or $3.00 for each paying passenger of an air carrier enplaned at such airport to finance eligible airport-related projects to be carried out in connection with such airport or any other airport which such agency controls. For purposes of this subsection, financing an eligible airport-related project includes making payments for debt service on bonds and other indebtedness incurred to carry out such project.

"(2) USE OF REVENUES AND RELATIONSHIP BETWEEN FEES AND REVENUES.—The Secretary may grant a public agency which controls a commercial service airport authority to impose a fee under this subsection to finance specific projects only if the Secretary finds, on the basis of an application submitted for such authority—

"(A) that the amount and duration of the proposed fee will result in revenues (including interest and other returns on such revenues) which do not exceed amounts necessary to finance the specific projects; and

"(B) that each of the specific projects is an eligible airport-related project which will—

"(i) preserve or enhance capacity, safety, or security of the national air transportation system,

"(ii) reduce noise resulting from an airport which is part of such system, or

"(iii) furnish opportunities for enhanced competition between or among air carriers.

"(3) LIMITATION REGARDING PASSENGERS OF AIR CARRIERS RECEIVING ESSENTIAL AIR SERVICE COMPENSATION.—If a passenger of an air carrier is being provided air service to an eligible point under section 419 for which compensation is being paid under such section, a public agency which controls any other airport may not impose a fee pursuant to this subsection for enplanement of such passenger with respect to such air service.

"(4) LIMITATION REGARDING OBLIGATIONS.—No fee may be imposed pursuant to this subsection for a project which is not approved by the Secretary under this subsection on or before September 30, 1992—

"(A) if, during fiscal years 1991 and 1992, the amount available for obligation, in the aggregate, under section 505 of Airport and Airway Improvement Act of 1982 is less than $3,700,000,000; or

"(B)(i) if, during fiscal year 1991, the amount available for obligation, in the aggregate, under section 419 is less than $26,600,000; or

"(ii) if, during fiscal year 1992, the amount available for obligation, in the aggregate, under section 419 is less than $28,600,000.

"(5) TWO ENPLANEMENTS PER TRIP LIMITATION.—Enplaned passengers on whom a fee may be imposed by a public agency pursuant to this subsection include passengers of air carriers originating or connecting at the commercial service airport which the agency controls. A fee may not be collected pursuant to this subsection from a passenger with respect to any enplanement of such passenger, on a one-way trip and on a trip in each direction of a round trip, after the second enplanement for which a fee has been collected pursuant to this subsection from such passenger.

"(6) TREATMENT OF REVENUES.—Revenues derived from collection of a fee by a public agency pursuant to this subsection shall not be treated as airport revenues for the purposes of any contract between such agency and an air carrier.

"(7) EXCLUSIVITY OF AUTHORITY.—No State or political subdivision or agency thereof which is not a public agency controlling a commercial service airport shall prohibit, limit, or regulate the imposition of fees by the public agency pursuant to this subsection, collection of such fees, or use of revenues derived therefrom. No contract between an air carrier and a public agency which controls a commercial service airport entered into before, on, or after the date of the enactment of this subsection shall affect the authority of the public agency to impose fees pursuant to this subsection and to use the revenues derived from such fees in accordance with this subsection.

"(8) NONEXCLUSIVITY OF CONTRACTUAL AGREEMENTS.—No project carried out through the use of a fee collected pursuant to this subsection may be subject to an exclusive long-term lease or use agreement of an air carrier, as defined by the Secretary by regulation. Any lease or use agreement of an air carrier with respect to a facility constructed or expanded through the use of such fee may not contain or be subject to any term or condition which restricts the public agency which controls the airport from funding, developing, or assigning new capacity at the airport.

"(9) COLLECTION AND HANDLING OF FEES BY AIR CARRIERS.—The regulations issued by the Secretary to carry out this subsection shall—

"(A) require air carriers and their agents to collect fees imposed by public agencies pursuant to this subsection;

"(B) establish procedures regarding handling and remittance of the amounts so collected;

"(C) ensure that such amounts are promptly paid to the public agency for which they are collected less a uniform amount determined by the Secretary as reflecting average necessary and reasonable expenses (net of interest accruing to the air carrier and agent after collection and prior to remittance) incurred in the collection and handling of such fees; and

"(D) require that the amount of fees collected pursuant to this subsection with respect to any air transportation be noted on the ticket for such air transportation.

"(10) APPLICATION PROCESS.—

"(A) SUBMISSION.—A public agency which controls a commercial service airport and is interested in imposing a fee pursuant to this subsection shall submit to the Secretary an application for authority to impose such fee.

"(B) CONTENT.—An application submitted under this paragraph shall contain such information and be in such form as the Secretary may require by regulation.

"(C) OPPORTUNITY FOR CONSULTATION.—Before submission of an application under this paragraph, the public agency must provide reasonable notice to, and an opportunity for consultation with, air carriers operating at the airport.

"(D) NOTICE AND OPPORTUNITY FOR COMMENT.—After receiving an application under this paragraph, the Secretary shall provide notice and an opportunity for comment by air carriers and other interested persons concerning such application.

"(E) APPROVAL.—A fee may only be imposed pursuant to this subsection if the Secretary approves an application granting authority for the imposition of such fee. Not later than 120 days after the date of receipt of such an application, the Secretary shall make a final decision regarding approval of such application.

"(11) RECORDKEEPING AND AUDITS.—

"(A) WITH RESPECT TO COLLECTION OF FEES.—The Secretary shall issue regulations requiring such recordkeeping and auditing of accounts maintained by an air carrier and any agency thereof which is collecting a fee imposed pursuant to this subsection and by the public agency which is imposing such fee as may be necessary to ensure compliance with this subsection.

"(B) WITH RESPECT TO USE OF REVENUES.—The Secretary shall periodically audit and review the use by a public agency which controls an airport of revenues derived from a fee imposed pursuant to this subsection. Upon such review and after a public hearing, the Secretary may terminate the authority of such agency to impose such fee, in whole or in part, to the extent the Secretary determines that revenues derived therefrom are not being used in accordance with this subsection.

"(C) SET-OFF.—If the Secretary determines that a fee imposed pursuant to this subsection is excessive or that the revenues derived from such fee are not being used in accordance with this subsection, the Secretary may set off such amounts as may be necessary to ensure compliance with this subsection against amounts otherwise payable to the public agency under the Airport and Airway Improvement Act of 1982.

"(12) TERMS AND CONDITIONS.—Authority granted to impose a fee pursuant to this subsection shall be subject to such terms and conditions as the Secretary may establish to carry out the objectives of this subsection.

"(13) ISSUANCE OF REGULATIONS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue such regulations as may be necessary to carry out this subsection. Such regulations may prescribe the time and form by which a fee imposed pursuant to this subsection shall take effect.

"(14) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

"(A) AIR CARRIER.—The term 'air carrier' includes a foreign air carrier.

"(B) AIRPORT, COMMERCIAL SERVICE AIRPORT, AND PUBLIC AGENCY.—The terms 'airport', 'commercial service airport', and 'public agency' have the meaning such terms have under section 503 of the Airport and Airway Improvement Act of 1982.

"(C) ELIGIBLE AIRPORT-RELATED PROJECT.—The term 'eligible airport-related project' means—

"(i) a project for airport development under the Airport and Airway Improvement Act of 1982;

"(ii) a project for airport planning under such Act;

"(iii) a project for terminal development described in section 513(b) of such Act;

"(iv) a project for airport noise capability planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979;

"(v) a project to carry out noise compatibility measures which are eligible for assistance under section 104 of the Aviation Safety and Noise Abatement Act of 1979 without regard to whether or not a program has been approved for such measures under such section; and

"(vi) a project for construction of gates and related areas at which passengers are enplaned or deplaned.

"(D) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.".

SEC. 10111. REDUCTION IN AIRPORT IMPROVEMENT PROGRAM APPORTIONMENTS FOR LARGE AND MEDIUM HUB AIRPORTS IMPOSING PASSENGER FACILITY CHARGES.

Section 507(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(b)) is amended by adding at the end the following new paragraph:

"(7) REDUCTION IN APPORTIONMENTS TO CERTAIN LARGE AND MEDIUM HUBS.—

"(A) GENERAL RULE.—The amount which, but for this paragraph, would be apportioned under this section for a fiscal year to a sponsor of an airport that annually has 0.25 percent or more of the total annual enplanements in the United States and for which a fee is imposed in such fiscal year pursuant to section 1113(e) of the Federal Aviation Act of 1958 shall be reduced by an amount equal to 50 percent of the projected revenues derived from such fee in such fiscal year.

"(B) LIMITATION.—The maximum reduction in an apportionment to a sponsor of an airport as a result of this paragraph in a fiscal year shall be 50 percent of the amount which, but for this paragraph, would be apportioned to such airport under this section.".

SEC. 10112. USE OF PFC REDUCED APPORTIONMENT FUNDS.

(a) ADDITION OF FUNDS TO EXISTING DISCRETIONARY FUND.—Section 507(c)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(c)(1)) is amended by inserting after the first sentence the following new sentence: "Twenty-five percent of the amounts which are not apportioned under this section as a result of subsection

(b)(7) shall be added to such discretionary fund.".

(b) SMALL AIRPORT FUND.—Section 507 of such Act is amended by redesignating subsections (d) and (e), and any references thereto, as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) SMALL AIRPORT FUND.—

"(1) ESTABLISHMENT.—Seventy-five percent of the amounts which are not apportioned under this section as a result of subsection (b)(7) shall constitute a small airport fund to be distributed at the discretion of the Secretary.

"(2) SET-ASIDE FOR GENERAL AVIATION AIRPORTS.—One-third of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of public-use airports (other than commercial service airports) for any purpose for which funds are made available under section 505.

"(3) SET-ASIDE FOR NONHUB AIRPORTS.—Two-thirds of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of commercial service airports each of which annually has less than 0.05 percent of the total annual enplanements in the United States for any purpose for which funds are made available under section 505.".

(c) PROHIBITION ON REDUCED FUNDING.—It is the sense of Congress that the Secretary should not reduce funding under the discretionary fund established under section 507(c) of the Airport and Airway Improvement Act of 1982 for small commercial service and general aviation airports as a result of additional funds made available to such airports under this section, including amendments made by this section.

SEC. 10113. SMALL COMMUNITY AIR SERVICE PROGRAM.

(a) DEFINITION OF ELIGIBLE POINT.—Section 419(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389(a)) is amended to read as follows:

"(a) ELIGIBLE POINT DEFINED.—

"(1) GENERAL RULE.—For purposes of this section, the term 'eligible point' means any point in the United States—

"(A) which was defined as an eligible point under this section as in effect before October 1, 1988;

"(B) which received scheduled air transportation at any time after January 1, 1990; and

"(C) which is not listed in the Department of Transportation Orders 89-9-37 and 89-12-52 as being a point no longer eligible for compensation under this section.

"(2) LIMITATION ON USE OF PER PASSENGER SUBSIDY.—The Secretary may not determine that a point described in paragraph (1) is not an eligible point on the basis of the per passenger subsidy at the point or on any other basis not specifically set forth in this section.".

(b) FUNDING.—

(1) IN GENERAL.—Section 419 of such Act is amended by redesignating subsection (l), and any reference thereto, as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) FUNDING.—

"(1) CONTRACT AUTHORITY.—The Secretary is authorized to enter into agreements and to incur obligations from the Airport and Airway Trust Fund for the payment of compensation under this section. Approval by the Secretary of such an agreement shall be deemed a contractual obligation of the United States for payment of the Federal share of such compensation.

"(2) AMOUNTS AVAILABLE.—There shall be available to the Secretary from the Airport and Airway Trust Fund to incur obligations under this section $38,600,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998. Such amounts shall remain available until expended.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1991.

(c) CONFORMING AMENDMENTS.—Section 333 of Public Law 100-457 and section 325(a) of Public Law 101-164 are repealed.

SEC. 10114. STATE BLOCK GRANT PILOT PROGRAM.

Section 534 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2227) is amended—

(1) in subsection (a) by striking "1991" and inserting "1992"; and

(2) in subsection (d) by striking "not later than 90 days before its scheduled termination" and inserting "not later than January 31, 1992".

SEC. 10115. AUXILIARY FLIGHT SERVICE STATION PROGRAM.

(a) GENERAL RULE.—The Secretary of Transportation shall develop and implement a system of manned auxiliary flight service stations. The auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. Auxiliary flight service stations shall be located in areas of unique weather or operational conditions which are critical to the safety of flight.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall report to Congress with the plan and schedule for implementation of this section.

SEC. 10116. AIRPORT AND AIRWAY IMPROVEMENTS FOR THE VIRGIN ISLANDS.

(a) AIR SPACE STUDY.—The Administrator of the Federal Aviation Administration shall conduct an air space study of the Caribbean and Miami air traffic control regions for the purpose of determining methods of improving air safety and report to Congress the results of such study.

(b) OPERATIONS OF AIRPORT TOWERS FOR ST. THOMAS AND ST. CROIX.—The Administrator may not enter into contracts with private persons for operation of the airport control towers for St. Thomas and St. Croix, Virgin Islands, before the 30th day following the date on which a report is submitted to Congress under subsection (a).

(c) REPLACEMENT OF RADAR FACILITIES FOR ST. THOMAS.—The Administrator shall take such action as may be necessary to ensure that the radar facilities for the airport on St. Thomas, Virgin Islands, which were destroyed by Hurricane Hugo are replaced and operational by the 120th day following the date of the enactment of this Act.

SEC. 10117. ENGINE CONDITION MONITORING SYSTEMS.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the potential use of engine condition monitoring systems on aircraft. In conducting such study, the Administrator shall evaluate—

(1) the availability of technology for such systems;

(2) the capabilities of such systems in terms of enhancing safety and reducing maintenance costs associated with civil and military aircraft;

(3) the commercial viability of developing computer software to enable maintenance workers to efficiently use data gathered by such systems;

(4) the costs and benefits of using such systems as compared to engine fault detection methods which rely on the use of data relating to historical performance and statistical failure;

(5) the types of aircraft engine failures which may be prevented by using such systems; and

(6) the operational reliability of such systems.

(b) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted pursuant to this section together with such legislative and administrative recommendations as the Administrator considers appropriate.

SEC. 10118. PROCUREMENT AUTHORITY.

(a) IN GENERAL.—Section 303 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1344) is amended to read as follows:

"SEC. 303. PROCUREMENT AUTHORITY.

"(a) ACQUISITION AND DISPOSAL OF PROPERTY.—Subject to subsection (b), the Administrator, on behalf of the United States, is authorized, where appropriate—

"(1) within the limits of available appropriations made by the Congress therefor, to acquire by purchase, condemnation, lease for a term not to exceed 20 years, or otherwise, personal property or services and real property or interests therein, including, in the case of air navigation facilities (including airports) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith;

"(2) for adequate compensation, by sale, lease, or otherwise, to dispose of any real or personal property or interest therein; except that, other than for airport and airway property and technical equipment used for the special purposes of the Federal Aviation Administration, such disposition shall be made in accordance with the Federal Property and Administrative Services Act of 1949; and

"(3) to construct, improve, or renovate laboratories and other test facilities and to purchase or otherwise acquire real property required therefor.

"(b) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—

"(1) ACQUISITIONS BY CONDEMNATION.—Any acquisition by condemnation under subsection (a) may be made in accordance with the provision of the Act of August 1, 1988 (40 U.S.C. 257; 25 Stat. 357), the Act of February 26, 1931 (40 U.S.C. 258a-258e-1; 46 Stat. 1421), or any other applicable Act; except that, in the case of condemnations of easements through or other interests in airspace, in fixing condemnation awards, consideration may be given to the reasonable probably future use of the underlying land.

"(2) ACQUISITIONS OF PUBLIC BUILDINGS.—The Administrator may, under subsection (a) construct or acquire by purchase, condemnation, or lease a public building, or interest in a public building (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612)) only under a delegation of authority from the Administrator of General Services.

"(c) PROCUREMENT PROCEDURES.—In procuring personal property or services and real property and interests therein under subsection (a), the Administrator may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

"(d) SOLE SOURCE APPROVAL BY ADMINISTRATOR.—For procurements by the Federal Aviation Administration, the Administrator

shall be the senior procurement executive referred to in paragraph (3) of section 16 of Office of Federal Procurement Policy Act (41 U.S.C. 414) for the purposes of approving the justification for the use of noncompetitive procedures required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii)).

"(e) MULTIYEAR SERVICE CONTRACTS.—

"(1) IN GENERAL.—Notwithstanding section 1341(a)(1)(B) of title 31, United States Code, the Administrator may enter into contracts for periods of not more than 5 years for the following types of services (and items of supply related to such services) for which funds would otherwise be available for obligation only within the fiscal year for which appropriated—

"(A) operation, maintenance, and support of facilities and installations;

"(B) operation, maintenance, or modification of aircraft, vehicles, and other highly complex equipment;

"(C) specialized training necessitating high quality instructor skills (for example, pilot and aircrew members; foreign language training); and

"(D) base services (for example, ground maintenance, in-plane refueling; bus transportation; refuse collection and disposal).

"(2) FINDINGS.—The Administrator may enter into a contract described in paragraph (1) only if the Administrator finds that—

"(A) there will be a continuing requirement for the services consonant with current plans for the proposed contract period;

"(B) the furnishing of such services will require a substantial initial investment in plant or equipment, or the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized workforce; and

"(C) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

"(3) GUIDANCE PRINCIPLES.—In entering into contracts described in paragraph (1), the Administrator shall be guided by the following principles:

"(A) The portion of the cost of any plant or equipment amortized as a cost of contract performance should not exceed the ratio between the period of contract performance and the anticipated useful commercial life of such plant or equipment. Useful commercial life, for this purpose, means the commercial utility of the facilities rather than the physical life thereof, the due consideration given to such factors as location of facilities, specialized nature thereof, and obsolescence.

"(B) Consideration shall be given to the desirability of obtaining an option to renew the contract for a reasonable period not to exceed 3 years, at prices not to include charges for plant, equipment, and other nonrecurring costs, already amortized.

"(C) Consideration shall be given to the desirability of reserving in the Federal Aviation Administration the right, upon payment of the unamortized portion of the cost of the plant or equipment, to take title thereto under appropriate circumstances.

"(4) TERMINATION.—In the event funds are not made available for the continuation of a contract described in paragraph (1) into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of services concerned, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(f) MULTIYEAR PROPERTY ACQUISITION CONTRACTS.—

"(1) IN GENERAL.—Notwithstanding section 1341(a)(1)(B) of title 31, United States Code, to the extent that funds are otherwise available for obligation, the Administrator may make multiyear contracts (other than contracts described in paragraph (6)) for the purchase of property, whenever the Administrator finds—

"(A) that the use of such a contract will promote the safety or efficiency of the National Airspace System and will result in reduced total costs under the contract;

"(B) that the minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities;

"(C) that there is a reasonable expectation that throughout the contemplated contract period the Administrator will request funding for the contract at the level required to avoid contract cancellation;

"(D) that there is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive; and

"(E) that the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

"(2) REGULATIONS.—

"(A) GENERAL RULE.—The Administrator shall issue regulations for acquisition of property under this subsection to promote the use of multiyear contracting as authorized by paragraph (1) in a manner that will allow the most efficient use of multiyear contracting.

"(B) CANCELLATION PROVISIONS.—The regulations issued under this paragraph may provide for cancellation provisions in multiyear contracts described in paragraph (1) to the extent that such provisions are necessary and in the best interests of the United States. Such cancellation provisions may include consideration of both recurring and nonrecurring costs of the contractor associated with the production of the items to be delivered under the contract.

"(C) BROADENING INDUSTRIAL BASE.—In order to broaden the aviation industrial base, the regulations issued under this paragraph shall provide that, to the extent practicable—

"(i) multiyear contracting under paragraph (1) shall be used in such a manner as to seek, retain, and promote the use under such contracts of companies that are subcontractors, vendors, or suppliers; and

"(ii) upon accrual of any payment or other benefit under such a multiyear contract to any subcontract, vendor, or supplier company participating in such contractor, such payment or benefit shall be delivered to such company in the most expeditious manner practicable.

"(D) PROTECTION OF FEDERAL INTERESTS.—The regulations issued under this paragraph shall also provide that, to the extent practicable, the administration of this subsection, and of the regulations issued under this subsection, shall not be carried out in a manner to preclude or curtail the existing ability of the Federal Aviation Administration to—

"(i) provide for competition in the production of items to be delivered under such a contract; or

"(ii) provide for termination of a prime contract the performance of which is deficient with respect to cost, quality, or schedule.

"(3) SPECIAL RULE FOR CONTRACTS WITH HIGH CANCELLATION CEILING.—Before any contract described in paragraph (1) that contains a clause setting forth a cancellation ceiling in excess of $100,000,000 may be awarded, the Administrator shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(4) ADVANCE PROCUREMENT.—Contracts made under this subsection may be used for the advance procurement of components, parts, and materials necessary to the manufacture of equipment to be used in the National Airspace System, and contracts may be made under this subsection for such advance procurement, if feasible and practicable, in order to achieve economic-lot purchases and more efficient production rates.

"(5) TERMINATION.—In the event funds are not made available for the continuation of a contract made under this subsection into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of property concerned, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(6) LIMITATION ON APPLICABILITY.—This subsection does not apply to contracts for the construction, alteration, or major repair or improvements to real property or contracts for the purchase of property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies.

"(7) MULTIYEAR CONTRACT DEFINED.—For the purposes of this subsection, a multiyear contract is a contract for the purchase of property or services for more than 1, but not more than 5, fiscal years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

"(8) PRICE OPTIONS.—The Administrator may incorporate into a proposed multiyear contract negotiated priced options for varying the quantities of end items to be procured over the period of the contract.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 303 is amended to read as follows:

"Sec. 303. Procurement authority.....
"(a) Acquisition and disposal of property.
"(b) Special rules for acquisitions.
"(c) Procurement procedures.
"(d) Sole source approval by Administrator.
"(e) Multiyear service contracts.
"(f) Multiyear property acquisition contracts.".

SEC. 10119. EXPANDED EAST COAST PLAN.

(a) ENVIRONMENTAL IMPACT STATEMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue an environmental impact statement pursuant to the National Environmental

Policy Act of 1969 on the effects of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(b) AIR SAFETY INVESTIGATION.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall conduct an investigation to determine the effects on air safety of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the environmental impact statement and investigation conducted pursuant to this section. Such report shall also contain such recommendations for modification of the Expanded East Coast Plan as the Administrator considers appropriate or an explanation of why modification of such plan is not appropriate.

(d) IMPLEMENTATION OF MODIFICATIONS.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall implement modifications to the Expanded East Coast Plan recommended under subsection (c).

SEC. 10120. TRANSFER OF FORMAT OF GEODETIC NAVIGATION INFORMATION.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the National Oceanic and Atmospheric Administration shall complete the transfer of geodetic coordinate navigation information from NAD-27 format to NAD-83 format.

SEC. 10121. SEVERABILITY.

If any provision of this subtitle (including an amendment made by this subtitle), or the application thereof to any person or circumstance, is held invalid, the remainder of this subtitle and the application of such provision to other persons of circumstances shall not be affected thereby.

SEC. 10122. BUY AMERICA.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this subtitle, section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b)) for any project unless steel and manufactured products used in such project are produced in the United States.

(b) LIMITATIONS ON APPLICABILITY.—The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

(3) in the case of the procurement of facilities and equipment under the Airport and Airway Improvement Act of 1982 that (A) the cost of components and subcomponents which are produced in the United States is more than 60 percent of the cost of all components of the facility or equipment described in this paragraph, and (B) final assembly of the facility or equipment described in this paragraph has taken place in the United States; or

(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

(c) CALCULATION OF COMPONENTS COSTS.—For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

SEC. 10123. PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

If the Secretary of Transportation determines that any person intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract or grant in conjunction with the issuance of any contract made under this subtitle for a period of not less than 3 years and not more than 5 years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

SEC. 10124. RESTRICTIONS ON CONTRACT AWARDS.

No person or enterprise domiciled or operating under the laws of a foreign government may enter into a contract or subcontract made pursuant to this subtitle if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

Subtitle C—Federal Aviation Administration Research, Engineering, and Development

SEC. 10201. SHORT TITLE.

This subtitle may be cited as the "Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990".

SEC. 10202. AVIATION RESEARCH AUTHORIZATION OF APPROPRIATIONS.

Paragraph (2) of section 506(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by striking subparagraph (A) and all that follows through the period at the end of such paragraph and inserting the following:

"(A) for fiscal year 1991—

"(i) $131,800,000 solely for air traffic control projects and activities;

"(ii) $19,100,000 solely for air traffic control advanced computer projects and activities;

"(iii) $3,400,000 solely for navigation projects and activities;

"(iv) $9,700,000 solely for aviation weather projects and activities;

"(v) $16,500,000 solely for aviation medicine projects and activities;

"(vi) $70,100,000 solely for aircraft safety projects and activities; and

"(vii) $4,400,000 solely for environmental projects and activities; and

"(B) for fiscal year 1992—

"(i) $137,800,000 solely for air traffic control projects and activities;

"(ii) $19,100,000 solely for air traffic control advanced computer projects and activities;

"(iii) $3,400,000 solely for navigation projects and activities;

"(iv) $9,700,000 solely for aviation weather projects and activities;

"(v) $16,500,000 solely for aviation medicine projects and activities;

"(vi) $76,100,000 solely for aircraft safety projects and activities; and

"(vii) $5,400,000 solely for environmental projects and activities.

Not less than 3 percent of the funds made available under this paragraph for a fiscal year shall be available to the Administrator for making grants under section 312(g) of the Federal Aviation Act of 1958.".

SEC. 10203. WEATHER SERVICES.

Section 506(d) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(d)) is amended by striking the second sentence and inserting the following: "Expenditures for the purposes of carrying out this subsection shall be limited to $34,521,000 for fiscal year 1991 and $35,389,000 for fiscal year 1992.".

SEC. 10204. AVIATION RESEARCH GRANT AND CONSORTIUM PROGRAM.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end thereof the following new subsection:

"(g) RESEARCH GRANT AND CONSORTIUM PROGRAM.—

"(1) GENERAL AUTHORITY.—The Administrator may make grants to colleges, universities, and nonprofit research organizations (A) to conduct aviation research, and (B) to establish a research consortium, consisting of regional centers of excellence for continuing research into areas deemed by the Administrator to be required for the long-term growth of civil aviation.

"(2) APPLICATIONS.—A university, college, or nonprofit organization interested in receiving a grant under this subsection may submit to the Administrator an application for such grant. Such application shall be in such form and contain such information as the Administrator may require.

"(3) SELECTION.—The Administrator shall establish a solicitation, review, and evaluation process that ensures (A) the funding under this subsection of proposals having adequate merit and relevancy to the mission of the Federal Aviation Administration, (B) an equitable geographical distribution of grant funds under this subsection, and (C) the inclusion of historically black colleges and universities and other minority institutions for funding consideration under this subsection.

"(4) RECORDS.—Each person awarded a grant under this subsection shall maintain such records as the Administrator may require as being necessary to facilitate an effective audit and evaluation of the use of grant funds.

"(5) REPORTS.—The Administrator shall make an annual report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the research grant program conducted under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(g) Research grant and consortium program.".

SEC. 10205. STUDY BY THE GENERAL ACCOUNTING OFFICE OF MULTIYEAR CONTRACTING AUTHORITY.

The Comptroller General of the United States shall conduct a study of the advisability of granting to the Administrator of the Federal Aviation Administration specific statutory authority—

(1) to lease real property or interests therein for terms not to exceed 20 years, including, in the case of air navigation facilities and airports (as such terms are defined in section 101(8) and (9) of the Federal Aviation Act of 1958) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and in connection therewith;

(2) to procure personal property or services and real property and interests therein

with procedures other than competitive procedures under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c));

(3) to serve as the senior procurement executive under section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) for the purpose of approving the justification for the use of noncompetitive procedures required under section 303(f)(1)(B)(ii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(ii));

(4) to let multiyear contracts for services, including the operation, maintenance, and support of facilities and installations; the operation, maintenance, and modification of aircraft, vehicles, and other highly complex equipment; specialized training necessitating high quality instructor skills; and base services; and

(5) to let multiyear contracts for the purchase of property.

The study also shall examine the implementation of section 2306 (g) and (h) of title 10, United States Code, by the Department of Defense, and shall assess the usefulness of granting similar authority to the Federal Aviation Administration. The Comptroller General shall submit a report on the results of the study, along with any comments of the Administrator of the Federal Aviation Administration, to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 6 months after the date of enactment of this Act.

SEC. 10206. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY ADMINISTRATOR.—If the Administrator, with the concurrence of the Secretary of Commerce and the United States Trade Representative, determines that the public interest so requires, the Administrator is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made under this subtitle that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Administrator shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this subtitle for which—

(1) amounts are authorized by this subtitle (including the amendments made by this subtitle) to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Administrator shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1991 and 1992 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Administrator shall also report to the Congress on the number of contracts covered under this subtitle (including the amendments made by this subtitle) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of the Federal Aviation Administration;

(2) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(3) the term "foreign firm" means a business entity not described in paragraph (2).

SEC. 10207. CATASTROPHIC FAILURE PREVENTION RESEARCH PROGRAM.

(a) GENERAL AUTHORITY.—Section 312(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(b)) is amended by inserting after "inflight aircraft fires," the following: "to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances which could result in a catastrophic failure of an aircraft,".

(b) GRANT PROGRAM.—Section 312 of such Act is amended by adding at the end the following new subsection:

"(g) CATASTROPHIC FAILURE PREVENTION RESEARCH GRANT PROGRAM.—

"(1) GENERAL AUTHORITY.—The Administrator may make grants to colleges, universities, and nonprofit research organizations (A) to conduct aviation research relating to development of technologies and methods to assess the risk and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances which could result in a catastrophic failure of an aircraft, and (B) to establish centers of excellence for continuing such research.

"(2) SELECTION AND EVALUATION PROCESSES.—The Administrator shall establish a solicitation, application, review, and evaluation process that ensures (A) the funding under this subsection of proposals having adequate merit and relevancy to the research described in paragraph (1).".

(c) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(g) Catastrophic failure prevention research grant program.".

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

TABLE OF CONTENTS

Subtitle A—Compensation, DIC, and Pension

SEC. 11001. LIMITATION ON COMPENSATION BENEFITS FOR CERTAIN INCOMPETENT VETERANS.

(a) IN GENERAL.—(1) Chapter 55 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3205. Limitation on compensation payments for certain incompetent veterans

"(a) In any case in which a veteran having neither spouse, child, nor dependent parent is rated by the Secretary in accordance with regulations as being incompetent and the value of the veteran's estate (excluding the value of the veteran's home) exceeds $25,000, further payment of compensation to which the veteran would otherwise be entitled may not be made until the value of such estate is reduced to less than $10,000.

"(b)(1) Subject to paragraph (2) of this subsection, if a veteran denied payment of compensation pursuant to subsection (a) is subsequently rated as being competent, the Secretary shall pay to the veteran a lump sum equal to the total of the compensation which was denied the veteran pursuant to such paragraph. The Secretary shall make the lump-sum payment after the end of six months following the date of the competency rating.

"(2) A lump-sum payment may not be made under paragraph (1) to a veteran who,

within such six-month period, dies or is again rated by the Secretary as being incompetent.

"(c) This section expires on September 30, 1992.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3205. Limitation on compensation payments for incompetents having estates."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to payment of compensation for months after October 1990.

SEC. 11002. ELIMINATION OF PRESUMPTION OF TOTAL DISABILITY IN DETERMINATION OF PENSION FOR CERTAIN VETERANS.

(a) ELIMINATION OF PRESUMPTION.—Section 502(a) of title 38, United States Code, is amended by striking out "sixty-five years of age or older or became unemployable after age 65, or".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to claims filed after October 31, 1990.

SEC. 11003. REDUCTION IN PENSION FOR VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) IN GENERAL.—Section 3203 of title 38, United States Code, is amended by adding at the end the following:

"(f)(1) For the purposes of this subsection—

"(A) the term 'Medicaid plan' means a State plan for medical assistance referred to in section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)); and

"(B) the term 'nursing facility' means a nursing facility described in section 1919 of such Act (42 U.S.C. 1396r).

"(2) If a veteran having neither spouse nor child is covered by a Medicaid plan for services furnished such veteran by a nursing facility, no pension in excess of $90 per month shall be paid to or for the veteran for any period after the month of admission to such nursing facility.

"(3) No pension in excess of $90 per month may be paid to or for a veteran having neither spouse nor child for any period after the month in which such veteran is readmitted to a nursing facility for services referred to in paragraph (2) of this subsection if such veteran is readmitted within six months after the end of latest month for which the veteran's pension was reduced pursuant to such paragraph.

"(4) Notwithstanding any provision of title XIX of the Social Security Act, the amount of the payment paid a nursing facility pursuant to a Medicaid plan for services furnished a veteran may not be reduced by any amount of pension permitted to be paid such veteran under paragraph (2) or (3) of this subsection.

"(5) A veteran is not liable to the United States for any payment of pension in excess of the amount permitted under this subsection that is paid to or for the veteran before the Secretary knows that the veteran is admitted or readmitted to a nursing facility for services covered by a Medicaid plan.

"(6) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

"(7) This section expires on September 30, 1992.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to payment of pension for months after the month in which this Act is enacted.

SEC. 11004. INELIGIBILITY OF REMARRIED SURVIVING SPOUSES OR MARRIED CHILDREN FOR REINSTATEMENT OF BENEFITS ELIGIBILITY UPON BECOMING SINGLE.

(a) IN GENERAL.—Section 103 of title 38, United States Code, is amended by striking out subsections (d) and (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 1, 1990, or the date of the enactment of this Act, whichever is later.

SEC. 11005. LIMITATIONS RELATING TO DISABILITY COMPENSATION COST-OF-LIVING INCREASES.

(a) POINT OF ORDER RELATING TO AN INCREASE IN VETERANS' DISABILITY COMPENSATION.—It shall not be in order during the One Hundred First Congress, second session, for either House of Congress to consider any bill or resolution containing a provision that increases, effective on a date during fiscal year 1991, the rates of disability compensation payable under laws administered by the Secretary of Veterans Affairs if such provision—

(1) includes authority to round the amounts of the monthly disability compensation computed under such provision in any manner other than to the next lower dollar; or

(2) does not include an effective date for such increase of January 1, 1991, or later.

(b) POINT OF ORDER RELATING TO AMENDMENTS.—It shall not be in order during the One Hundred First Congress, second session, for either House of Congress to consider any amendment to a bill or resolution that, if agreed to, would cause the bill or resolution to be subject to a point of order under subsection (a).

(c) SECTION SUBJECT TO RULEMAKING AUTHORITY.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only to a bill or resolution described in subsection (a) and an amendment described in subsection (b), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

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

Subtitle B—Health-Care Benefits

SEC. 11011. MEDICAL-CARE COST RECOVERY.

(a) APPLICABILITY.—Effective for the period ending on October 1, 1992, clause (D) of section 629(a)(2) of title 38, United States Code, is amended to read as follows:

"(D) that is incurred by a veteran who is entitled to care (or payment of the expenses of care) under a health-plan contract.".

(b) MAXIMUM AMOUNT RECOVERABLE.—Clause (B) of section 629(c)(2) of such title is amended by striking out "in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with", and inserting in lieu thereof "if provided by".

(c) ESTABLISHMENT OF MEDICAL RECOVERIES FUND.—Section 629(g) of such title is amended to read as follows:

"(g)(1) There is established in the Treasury a fund to be known as the Department of Veterans Affairs Third-Party Medical Recoveries Fund (hereafter referred to in this section as the 'Fund').

"(2) Amounts recovered or collected under this section shall be credited to the Fund.

"(3) Sums in the Fund shall be available to the Secretary for the following:

"(A) Necessary expenses for the identification, billing, and collection of the cost of care and services furnished under this chapter, including costs of equipment, computer hardware and software costs, word processing and telecommunications equipment costs, costs of supplies and furniture, personnel training and travel costs, personnel and administrative costs of attorneys with the Office of the General Counsel (and their support personnel), other personnel and administrative costs, and the costs of any contract for identification, billing, or collection services.

"(B) Payment of the Secretary for reasonable charges, as determined by the Secretary, imposed for (i) services and utilities (including light, water, and heat) furnished by the Secretary, (ii) recovery and collection activities under this section, and (iii) administration of the Fund.

"(C) Costs related to the administration and collection of copayments imposed for health care and supplies furnished under this chapter.

"(4) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the unobligated balance in the Fund at the close of business on September 30 of the preceding year.".

(d) TRANSFER TO FUND.—

(1) AMOUNT TO BE TRANSFERRED.—The Secretary of the Treasury shall transfer $25,000,000 from the Department of Veterans Affairs Loan Guaranty Revolving Fund to the Department of Veterans Affairs Third-Party Medical Recoveries Fund established by section 629(g) of title 38, United States Code (as amended by subsection (c)). The amount so transferred shall be available until September 30, 1991, for the support of the equivalent of 860 full-time employees and other expenses described in paragraph (3) of such section.

(2) REIMBURSEMENT OF LOAN GUARANTY REVOLVING FUND.—Notwithstanding section 629(g) of title 38, United States Code (as amended by subsection (c)), the first $25,000,000 recovered or collected by the Department of Veterans Affairs during fiscal year 1991 as a result of third-party medical recovery activities shall be credited to the Department of Veterans Affairs Loan Guaranty Revolving Fund.

(3) THIRD-PARTY MEDICAL RECOVERY ACTIVITIES DEFINED.—For the purposes of this section, the term "third-party medical recovery activities" means recovery and collection activities carried out under section 629 of title 38, United States Code.

(e) DEFINITION OF HEALTH-PLAN CONTRACT.—Clause (A) of section 629(i)(1) of title 38, United States Code, is amended by adding at the end the following sentence: "Such term includes a Medicare supplemental insurance policy, as defined in section 1882(g) of the Social Security Act (42 U.S.C. 1395ss(g)), and with respect to such a policy, Department of Veterans Affairs medical facilities and personnel shall be deemed to be Medicare-participating providers, and medical services covered by such a policy and furnished by the Department shall be deemed to be Medicare-covered services.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1990.

SEC. 11012. COPAYMENT FOR MEDICATION.

(a) IN GENERAL.—(1) Subchapter III of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 622A. Copayments for prescription drugs

"(a) The Secretary may not furnish a drug under this chapter on an outpatient basis

for the treatment of a non-service-connected disability or condition of a veteran (other than a veteran with a service-connected disability rated 50 percent or more) unless the veteran pays to the United States $2 for each 30-day supply of the drug provided to the veteran. If the initial amount supplied is less than a 30-day supply, the amount of the charge may not be reduced.

"(b) Amounts collected under this section shall be credited to the Department of Veterans Affairs Third-Party Medical Recoveries Fund.

"(c) The provisions of subsection (a) expire on September 30, 1991.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 622 the following new item:

"622A. Copayments for drugs.".

(b) EFFECTIVE DATE.—Section 622A of title 38, United States Code, as added by subsection (a), shall apply with respect to drugs furnished by the Secretary of Veterans Affairs under chapter 11 of title 38, United States Code, after October 31, 1990, or the date of the enactment of this Act, whichever is later.

SEC. 11012. MODIFICATION OF HEALTH-CARE CATEGORIES AND COPAYMENTS.

(a) INPATIENT CARE.—(1) Subsection (a) of section 610 of title 38, United States Code, is amended—

(A) in paragraph (1)(I), by striking out "622(a)(1)" and inserting in lieu thereof "622(a)"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) In the case of a veteran who is not described in paragraph (1) of this subsection, the Secretary may, to the extent resources and facilities are available, furnish hospital care and nursing home care to a veteran which the Secretary determines is needed for a nonservice-connected disability, subject to the provisions of subsection (f) of this section.".

(2) Subsection (f) of such section is amended—

(A) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(f)(1) The Secretary may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care under subsection (a)(2) of this section unless the veteran agrees to pay the United States the applicable amount determined under paragraph (2) of this subsection.

"(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to—

"(A) the lesser of—

"(i) the cost of furnishing such care, as determined by the Secretary, and

"(ii) the amount determined under paragraph (3) of this subsection; and

"(B) an amount equal to $10 for every day the veteran receives hospital care, and $5 for every day the veteran receives nursing home care, after that number of days considered in determining the amount the veteran is liable for under clause (i) of this subparagraph."; and

(B) in subparagraphs (A) and (B) of paragraph (3), by striking out "(2)(B)" each place it appears and inserting in lieu thereof "(2)(A)(i)(II)".

(b) OUTPATIENT CARE.—Subsection (f) of section 612 of such title is amended—

(1) in paragraph (1), by striking out "610(a)(2)(B)" and inserting in lieu thereof "610(a)(2)";

(2) by redesignating paragraphs (5) and (7) as (3) and (4), respectively; and

(3) by striking paragraphs (3), (4), and (6).

(c) INCOME THRESHOLDS.—(1) Subsection (a) of section 622 of such title is amended—

(A) in paragraph (1)—

(i) by striking out "(1)" at the beginning of the subsection;

(ii) by redesignating clauses (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(iii) by striking out "Category A threshold" in paragraph (3), as so redesignated, and inserting in lieu thereof "the amount set forth in subsection (b)";

(B) by striking out paragraph (2).

(2) Subsection (b) of such section is amended to read as follows:

"(b)(1) For purposes of subsection (a)(3), the income threshold for the calendar year beginning on January 1, 1990, is—

"(A) $17,240 in the case of a veteran with no dependents; and

"(B) $20,688 in the case of a veteran with one dependent, plus $1,150 for each additional dependent.

"(2) For a calendar year beginning after December 31, 1990, the amounts in effect for purposes of this subsection shall be the amounts in effect for the preceding calendar year as adjusted under subsection (c) of this section.".

(3) Subsection (c) of such section is amended by striking out "paragraphs (1) and (2) of".

(4) Paragraph (2) of subsection (d) of such section is amended to read as follows:

"(2) A determination described in this paragraph is a determination that for purposes of subsection (a)(3) of this section a veteran's attributable income is not greater than the amount determined under subsection (b) of this section.".

(5) Subsection (e) of such section is amended—

(A) in paragraph (1), by striking out "the Category A threshold or the Category B threshold, as appropriate" and inserting in lieu thereof "the amount determined under subsection (b) of this section"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) A veteran is described in this paragraph for the purposes of subsection (a) of this section if—

"(A) the veteran has an attributable income greater than the amount determined under subsection (b) of this section, and

"(B) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below the amount determined under subsection (b).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to hospital care and medical services received after October 31, 1990, or the date of the enactment of this Act, whichever is later.

(e) SUNSET.—The amendments made by this section expire on September 30, 1991.

Subtitle C—Education and Employment

SEC. 11021. LIMITATION OF REHABILITATION PROGRAM ENTITLEMENT TO SERVICE-DISABLED VETERANS RATED AT 20 PERCENT OR MORE.

(a) IN GENERAL.—Section 1502(1) of title 38, United States Code, is amended—

(1) in clause (A), by striking out ", or but for the receipt of retired pay would be, compensable under" and inserting in lieu thereof "rated at 20 percent or more for purposes of"; and

(2) in clause (B), by striking out "compensable under" and inserting in lieu thereof "rated at 20 percent or more for purposes of".

(b) EMPLOYMENT ASSISTANCE.—Section 1517 of such title is amended—

(1) in subsection (a)(1), by inserting "described in section 1502(1)(A) of this title" after "service-connected disability"; and

(2) in subsection (b)(1), by inserting "with a service-connected disability described in section 1502(1)(A) of this title" after "veteran" the first place it appears therein.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to veterans and other persons originally applying for assistance under chapter 31 of title 38, United States Code, on or after November 1, 1990.

Subtitle D—Housing and Loan Guaranty Assistance

SEC. 11031. MANUFACTURED HOMES.

Section 1812(c) of title 38, United States Code, is amended—

(1) in paragraph (3), by striking out the second and third sentences; and

(2) by adding at the end the following:

"(6)(A) In the case of making a claim on a guaranty made under this section, the holder of the loan shall have the election of submitting a claim to the Secretary based upon—

"(i) the value of the property securing the loan, as determined by the Secretary, upon receiving the Secretary's valuation; or

"(ii) upon completion of a liquidation sale, the greater of the value of the property securing the loan, as determined by the Secretary, or the actual proceeds from the liquidation.

"(B) Payments of a claim on a guaranty under this section shall be made only after the filing of an accounting with the Secretary. In any such accounting the Secretary shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Secretary may establish, and the Secretary shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Secretary may determine and such costs and expenses as the Secretary determines to be reasonable and proper.".

SEC. 11032. LOAN FEE.

Section 1829 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking out "The amount" and inserting in lieu thereof "Except as provided in paragraph (6) of this subsection, the amount"; and

(B) by adding at the end the following:

"(6) With respect to each loan closed during the period beginning November 1, 1990, and ending on October 1, 1991, each amount specified in paragraph (2) of this subsection and in subsection (b) of this section shall be increased by 0.50 percent of the total loan amount."; and

(2) in subsection (b), by striking out "The amount" in the second sentence and inserting in lieu thereof "Except as provided in paragraph (6) of subsection (a), the amount".

SEC. 11033. MORTGAGE PAYMENT ASSISTANCE TO AVOID FORECLOSURE OF HOME LOANS GUARANTEED UNDER TITLE 38.

(a) IN GENERAL.—(1) Chapter 37 of title 38, United States Code, is amended by inserting after section 1814 the following new section:

"§ 1815. Loans to refinance delinquent indebtedness

"(a)(1) The Secretary may, at the Secretary's option, provide assistance to a veteran under this section for the purpose of avoiding the foreclosure of a housing loan made to that veteran and guaranteed by the Sec-

retary under section 1810 or 1812 of this title (hereafter in this section referred to as a 'primary loan').

"(2) Assistance under this section shall be in the form of a loan to the veteran. Such assistance may be provided only if—

"(A) the dwelling that secures the primary loan is the current residence of the veteran and is occupied by the veteran as the veteran's home;

"(B) the veteran is at least six months delinquent in payments on that primary loan;

"(C) the veteran has lost employment or has had a substantial reduction in household income (as defined in regulations prescribed by the Secretary) through no fault of the veteran; and

"(D) the Secretary determines that there is a reasonable prospect that the veteran will be able to resume payment on the primary loan within six months after receiving assistance under this section.

"(3) For the purposes of this section, the term 'veteran' includes the surviving spouse of a veteran if the surviving spouse was a co-obligor of the primary loan.

"(b)(1) A loan under this section shall be advanced to the holder of the primary loan. The amount of the loan under this subsection shall first be applied to the amount delinquent on the loan guaranteed under this chapter including any amount delinquent on taxes, assessments, and hazard insurance required by the holder to be included in the veteran's monthly payment on the mortgage.

"(2) The Secretary may make more than one loan under this section to a veteran. The total amount of loans under this section to any veteran may not exceed $10,000.

"(c) A loan under this section—

"(1) shall bear no interest until the date on which payments on the primary loan (including amounts for taxes, assessments, and hazard insurance required by the holder to be included in the veteran's monthly payment on the mortgage) are current;

"(2) shall be secured by a lien on the property securing the primary loan and by such other security as the Secretary may require; and

"(3) shall be subject to such additional terms and conditions as the Secretary may require.

"(d) As a condition of receiving a loan under this section the veteran shall execute an agreement, in such form as the Secretary may prescribe, to repay the loan within a reasonable period of time, as determined by the Secretary, not to exceed 15 years from the date on which such loan is made. If the Secretary determines that the veteran has sufficient income or other resources to do so, the Secretary may require the veteran to make partial payments on the primary loan guaranteed under this chapter during the period the holder of that loan is applying the amount of the loan under this section to payments becoming due on the primary loan.

"(e) Notwithstanding any other law, the Secretary may employ attorneys to bring suit to collect any amount of a loan under this section on which the veteran to whom the loan is made is in default.

"(f) The Secretary's decisions on any question of law or fact regarding assistance under this section, including whether or not to grant such assistance and the terms and conditions under which such assistance is granted or not granted, shall be final and conclusive, and no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise.

"(g) A loan under this section shall be made from the fund established under section 1824 or 1825 of this title that is available with respect to the primary loan in connection with which the loan is made under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1814 the following new item:

"1815. Loans to refinance delinquent indebtedness.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 60-day period beginning on the date of the enactment of this Act.

SEC. 11034. ELIGIBILITY.

(a) SELECTED RESERVE.—Chapter 37 of title 38, United States Code, is amended—

(1) in section 1801(b), by adding at the end the following:

"(5)(A) The term 'veteran' also includes an individual who is not otherwise eligible for the benefits of this chapter and who has completed a total of service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.

"(B) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10, United States Code."; and

(2) in section 1802(a)(2), by adding at the end the following:

"(D) Each veteran described in section 1801(b)(5) of this title.".

(b) FEES.—(1) Section 1829(a)(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of a loan made to, or guaranteed or insured on behalf of, a veteran described in section 1801(b)(5) of this title under this chapter, the amount of such fee shall be—

"(i) two percent of the total loan amount;

"(ii) in the case of a loan for any purpose specified in section 1812 of this title, one percent of such amount; or

"(iii) in the case of a loan for a purchase (other than a purchase referred to in section 1812 of this title) or for construction with respect to which the veteran has made a downpayment of 5 percent or more of the total purchase price or construction cost—

"(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

"(II) 1.25 percent of the total loan amount if such downpayment is 10 percent or more of such price or cost.".

(2) Subparagraphs (A) and (B) of section 1825(c)(2) of such title are amended by inserting "(other than loans described in section 1829(a)(2)(D) of this title)" after "for each loan".

Subtitle E—Burial and Grave Marker Benefits

SEC. 11041. HEADSTONE OR MARKER ALLOWANCE.

(a) IN GENERAL.—Section 906 of title 38, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(b) EFFECTIVE DATE.—This section shall apply to deaths occurring on or after November 1, 1990.

SEC. 11042. PLOT ALLOWANCE ELIGIBILITY.

(a) IN GENERAL.—Section 903(b)(2) of title 38, United States Code, is amended by inserting "(other than a veteran whose eligibility for benefits under this subsection is based on being a veteran of any war)" after "(2) if such veteran".

(b) EFFECTIVE DATE.—This section shall apply to deaths occurring on or after November 1, 1990.

Subtitle F—Miscellaneous

SEC. 11051. USE OF TAX RETURN INFORMATION TO VERIFY INCOME FOR PURPOSES OF NEEDS-BASED BENEFITS AND SERVICES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) DISCLOSURE OF TAX INFORMATION TO DVA.—(1) Subparagraph (D) of section 6103(1)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) by striking out "and" at the end of clause (vi),

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and", and

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

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Secretary of Veterans Affairs;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total (except that, in such cases, only wage and self-employment information may be disclosed).".

(2) The heading of paragraph (7) of section 6103(1) of such Code is amended by striking out "OR THE FOOD STAMP ACT OF 1977" and inserting in lieu thereof ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) USE OF INCOME INFORMATION FOR NEEDS-BASED PROGRAMS.—(1) Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986.

"(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Secretary.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

"(f)(1) If funds appropriated to the Department of Veterans Affairs for general operating expenses for any fiscal year do not include sufficient amounts provided for the purpose of carrying out this section during that fiscal year, the Secretary shall pay the expenses of carrying out this section during that fiscal year (to the extent that such general operating expenses appropriations are insufficient for that purpose) from amounts available to the Department for the payment of compensation and pension.

"(2) For any fiscal year for which the authority provided by paragraph (1) is used, if a supplemental appropriation law is enacted to provide additional funds to the Department of Veterans Affairs for general operating expenses for that fiscal year which are to be available for the purpose of carrying out this section, such supplemental appropriations for such purpose shall (to the extent available) be used to reimburse appropriations provided for payment of compensation and pension for any expenses previously charged against such appropriations for the administration of this section.

"(g) The authority of the Secretary to obtain information from the Secretary of the Treasury or the Secretary of Health and Human Services under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 expires on September 30, 1992.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO CURRENT BENEFICIARIES.—(1) The Secretary of Veterans Affairs shall notify individuals who (as of the enactment of this Act) are applicants for or recipients of the benefits described in subsection (b) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)).

(2) Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(3) The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until such notification under paragraph (1) is made.

SEC. 11052. WILLFUL MISCONDUCT IN LINE OF DUTY.

(a) REPEAL OF RULE WITH RESPECT TO PRESUMPTION OF WILLFUL MISCONDUCT.—Section 105(a) of title 38, United States Code, is amended by striking out the last sentence.

(b) PROHIBITION OF PAYMENT OF BENEFITS BASED ON THE SECONDARY EFFECTS OF WILLFUL MISCONDUCT.—(1) Section 310 of such title is amended by inserting ", including the secondary effects," after "disability" the last place it appears.

(2) Section 331 of such title is amended by inserting ", including the secondary effects," after "disability" the last place it appears.

(3) Section 521 of such title is amended by inserting ", including the secondary effects," after "disability".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to claims filed after October 31, 1990.

SEC. 11053. MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS BY BENEFITS CLAIMANTS AND USES OF DEATH INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS.—Section 3001 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Any person who applies for or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of any such benefits. A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.

"(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number.".

(b) REVIEW OF DEPARTMENT OF HEALTH AND HUMAN SERVICES DEATH INFORMATION TO IDENTIFY DECEASED RECIPIENTS OF COMPENSATION AND PENSION BENEFITS.—(1) Chapter 53 of title 38, United States Code, as amended by section 11051, is further amended by adding at the end the following new section:

"§ 3118. Review of Department of Health and Human Services death information

"(a) The Secretary shall periodically compare Department of Veterans Affairs information regarding persons to or for whom compensation or pension is being paid with Department of Health and Human Services death information for the purposes of—

"(1) determining whether any such persons are deceased;

"(2) ensuring that such payments to or for any such persons who are deceased are terminated in a timely manner; and

"(3) ensuring that collection of overpayments of such benefits resulting from payments after the death of such persons is initiated in a timely manner.

"(b) The Department of Health and Human Services death information referred to in subsection (a) of this section is death information available to the Secretary from or through the Secretary of Health and Human Services, including death information available to the Secretary of Health and Human Services from a State, pursuant to a memorandum of understanding entered into by such Secretaries.".

(2) The table of sections at the beginning of such chapter is further amended by adding at the end the following:

"3118. Review of Department of Health and Human Services death information.".

TITLE XII—COMMITTEE ON WAYS AND MEANS: SPENDING

TABLE OF CONTENTS OF TITLE

Subtitle A—Provisions Relating to Medicare Part A

SEC. 12001. REDUCTIONS IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES FOR FISCAL YEAR 1991.

(a) IN GENERAL.—Section 1886(g)(3)(A)(v) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)(v)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

(b) EXEMPTION FOR RURAL PRIMARY CARE HOSPITALS.—Section 1886(g)(3)(B) of such Act is amended by striking "1886(d)(5)(D)(iii))." and inserting "1886(d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1))."

SEC. 12002. PROSPECTIVE PAYMENT HOSPITALS.

(a) HOSPITAL PAYMENT ADJUSTMENTS.—

(1) CHANGES IN UPDATE FACTORS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(i) by striking "and" at the end of subclause (V);

(ii) in subclause (VI)—

(I) by striking "1991" and inserting "1994", and

(II) by redesignating such subclause as subclause (IX); and

(iii) by inserting after subclause (V) the following new subclauses:

"(VI) for fiscal year 1991, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas,

"(VII) for fiscal year 1992, the market basket percentage increase minus 3.55 percentage points for hospitals in all areas,

"(VIII) for fiscal year 1993, the market basket percentage increase minus 1.0 percentage point for hospitals in all areas, and".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to payments for discharges occurring on or after January 1, 1991.

(2) RURAL AND INNER-CITY HOSPITALS.—

(A) CHANGES IN DISPROPORTIONATE SHARE ADJUSTMENTS.—

(i) INCREASE FOR URBAN HOSPITALS WITH MORE THAN 100 BEDS.—Section 1886(d)(5)(F)(vii) of such Act (42 U.S.C. 1395ww(d)(5)(F)(vii)) is amended—

(I) in subclause (I), by striking "greater than 20.2," and all that follows and inserting the following: "greater than 20.2—

"(a) for cost reporting periods beginning on or after April 1, 1990, and ending on or before September 30, 1990, (P-20.2)(.65) + 5.62.

"(b) for cost reporting periods beginning on or after October 1, 1990, and ending on or before September 30, 1992, (P-20.2)(.8) + 5.88.

"(c) for cost reporting periods beginning on or after October 1, 1992, and ending on or before September 30, 1993, (P-20.2)(.9) + 6.14,

"(d) for cost reporting periods beginning on or after October 1, 1993, and ending on or before September 30, 1994, (P-20.2)(.95) + 6.66, and

"(e) for cost reporting periods beginning on or after October 1, 1994, (P-20.2) + 6.92; or"; and

(II) in subclause (II), by striking "hospital, (P-15)(.6) +2.5," and inserting the following: "hospital—

"(a) for cost reporting periods beginning on or after April 1, 1990, and ending on or before September 30, 1990, (P-15)(.6) + 2.5,

"(b) for cost reporting periods beginning on or after October 1, 1990, and ending on or before September 30, 1992, (P-15)(.65) + 2.5,

"(c) for cost reporting periods beginning on or after October 1, 1992, and ending on or before September 30, 1993, (P-15)(.7) + 2.5,

"(d) for cost reporting periods beginning on or after October 1, 1993, and ending on or before September 30, 1994, (P-15)(.8) + 2.5, and

"(e) for cost reporting periods beginning on or after October 1, 1994, (P-15)(.85) + 2.5,".

(ii) INCREASE FOR HOSPITALS WITH DISPROPORTIONATE INDIGENT CARE REVENUES.—Section 1886(d)(5)(F)(iii) of such Act (42 U.S.C. 1395ww(d)(5)(F)(iii)) is amended by striking "30 percent" and inserting "35 percent".

(iii) REPEAL OF SUNSET.—Section 1886(d) of such Act (42 U.S.C. 1395ww(d)) is amended by striking "and before October 1, 1995," each place it appears in paragraph (2)(C)(iv) and paragraph (5)(F)(i).

(iv) NO RESTANDARDIZING FOR RECENT ADJUSTMENTS.—

(I) ADJUSTMENTS UNDER OBRA 1989.—Section 1886(d)(2)(C)(iv) of such Act (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", except that the Secretary shall not exclude additional payments under such paragraph made as a result of the enactment of section 6003(c) of the Omnibus Budget Reconciliation Act of 1989.".

(II) ADJUSTMENTS UNDER OBRA 1990.—Section 1886(d)(2)(C)(iv) of such Act, as amended by clause (i), is further amended by striking "1989." and inserting "1989 or the enactment of section 12002(c)(3) of the Omnibus Budget Reconciliation Act of 1990.".

(v) EFFECTIVE DATE.—The amendments made by clauses (i), (ii), (iii), and (iv)(II) shall apply to discharges occurring on or after July 1, 1991, and the amendment made by clause (iv)(I) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(B) PHASE-OUT OF SEPARATE AVERAGE STANDARDIZED AMOUNTS.—

(i) IN GENERAL.—Section 1886(b)(3)(B)(i) of such Act (42 U.S.C. 1395ww(b)(3)(B)(i)), as amended by subsection (a)(1), is further amended—

(I) in subclause (VI), by striking "in all areas," and inserting "in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for a reduction of 1/5 (compared to fiscal year 1990) in the percentage difference between the average standardized amount determined under subsection (d)(3)(A) for hospitals located in an urban area (other than a large urban area) and such average standardized amount for hospitals located in a rural area,";

(II) in subclause (VII), by striking "in all areas," and inserting "in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for a reduction of 1/4 (compared to fiscal year 1991) in the percentage difference between the average standardized amount determined under subsection (d)(3)(A) for hospitals located in an urban area (other than a large urban area) and such average standardized amount for hospitals located in a rural area,";

(III) in subclause (VIII), by striking "in all areas, and" and inserting "in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for a reduction of 1/3 (compared to fiscal year 1992) in the percentage difference between the average standardized amount determined under subsection (d)(3)(A) for hospitals located in an urban area (other than a large urban area) and such average standardized amount for hospitals located in a rural area,";

(IV) in subclause (IX)—

(a) by striking "1994" and inserting "1996", and

(b) by redesignating such subclause as subclause (XI); and

(V) by inserting after subclause (VIII) the following new subclauses:

"(IX) for fiscal year 1994, the market basket percentage increase for hospitals located in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for a reduction of 1/2 (compared to fiscal year 1993) in the percentage difference between the average standardized amount determined under subsection (d)(3)(A) for hospitals located in an urban area (other than a large urban area) and such average standardized amount for hospitals located in a rural area,

"(X) for fiscal year 1995, the market basket percentage increase for hospitals located in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for the average standardized amount determined under subsection (d)(3)(A) for hospitals located in a rural area being equal to such average standardized amount for hospitals located in an urban area (other than a large urban area), and".

(ii) CONFORMING AMENDMENTS.—Section 1886(d) of such Act (42 U.S.C. 1395ww(d)) is amended—

(I) in paragraph (1)(A)(iii), by striking "rural, large urban, or other urban area" and inserting "large urban or other area";

(II) in paragraph (3)(A)—

(a) in clause (ii), by striking "the Secretary" and inserting "and ending on or before September 30, 1995, the Secretary",

(b) by redesignating clause (iii) as clause (iv), and

(c) by inserting after clause (ii) the following new clause:

"(iii) For discharges occurring in a fiscal year beginning on or after October 1, 1995, the Secretary shall compute an average standardized amount for hospitals located in a large urban area and for hospitals located in other areas within the United States and within each region equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.";

(III) in paragraph (3)(B), by striking "in an urban area" and all that follows through "rural area" and inserting "in a large urban area and for hospitals located in an other urban area";

(IV) in paragraph (3)(D)(i)—

(a) in the matter preceding subclause (I), by striking "an urban area (or," and all that

follows through "area)," and inserting "a large urban area, and

(b) in subclause (I), by striking "an urban area" and inserting "a large urban area"; and

(V) in paragraph (3)(D)(ii), by striking "a rural area" each place it appears and inserting "other areas".

(iii) EFFECTIVE DATE.—The amendments made by clause (i) shall apply to payments for discharges occurring on or after January 1, 1991, and the amendments made by clause (ii) shall take effect October 1, 1995.

(3) PHASE-IN OF AREA WAGE INDEX UPDATE FOR FISCAL YEAR 1991.—Subject to the last sentence of section 1886(d)(3)(E) of the Social Security Act, for purposes of determining the amount of payment made to a hospital under part A of title XVIII of the Social Security Act for the operating costs of inpatient hospital services, the Secretary of Health and Human Services, in adjusting such amount under such section to reflect the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage index, shall—

(A) for discharges occurring during the period beginning January 1, 1991, and ending September 30, 1991, apply a combined area wage index consisting of—

(i) 75 percent of the area wage index determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 25 percent of the area wage index applicable to the hospital for discharges occurring during fiscal year 1990, as determined using the survey of the 1984 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for discharges occurring during fiscal year 1992 and fiscal year 1993, apply the area wage index otherwise applicable to the hospital under such section for discharges occurring during such fiscal year.

(4) STUDY OF AREA WAGE INDEX ADJUSTMENTS BASED ON PROFESSIONAL OCCUPATIONAL COMPONENT.—

(A) COLLECTION OF DATA.—The Secretary of Health and Human Services shall collect data on employee compensation and paid hours of employment for employees of subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) in various occupational categories, and shall provide such data to the Prospective Payment Assessment Commission.

(B) REPORT TO CONGRESS.—Not later than September 1, 1993, the Prospective Payment Assessment Commission shall, using the data provided by the Secretary under subparagraph (A), prepare and submit a report to Congress analyzing methods to adjust the area wage index applicable to a hospital under section 1886(d)(3)(E) of such Act to take into account variations in occupational categories included in such index.

(5) PERMANENT EXTENSION OF REGIONAL FLOOR ON STANDARDIZED AMOUNTS.—

(A) IN GENERAL.—Section 1886(d)(1)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking "during the period" and all that follows through "1990" and inserting "on or after April 1, 1988,".

(B) EXTENSION MADE ON BUDGET-NEUTRAL BASIS.—The Secretary of Health and Human Services shall make any adjustments resulting from the amendment made by subparagraph (A) in the amount of the payments made to hospitals under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services in a manner that ensures that the aggregate payments under such section are not greater or less than those that would have been made in the year without such adjustments.

(C) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to discharges occurring on or after October 1, 1990.

(6) ELIMINATION OF HOSPITAL OFF-SET FOR SERVICES OF PHYSICIAN ASSISTANTS.—

(A) IN GENERAL.—Section 9338 of the Omnibus Budget Reconciliation Act of 1986 is amended by striking subsection (d).

(B) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(7) DETERMINATION OF REASONABLE COSTS RELATING TO SWING BEDS.—(A) Section 1883(a)(2)(B)(ii)(II) of such Act (42 U.S.C. 1395tt(a)(2)(B)(ii)(II)) is amended by striking "the previous calendar year" and all that follows through the period and inserting "the most recent year for which cost reporting data are available with respect to such services (increased in a compounded manner by the applicable increase for payments for routine service costs of skilled nursing facilities under section 1888 for subsequent cost reporting periods and up to and including such calendar year) under this title to freestanding skilled nursing facilities in the region (as defined in section 1886(d)(2)(D)) in which the facility is located.".

(B) If, as a result of the amendment made by subparagraph (A), the reasonable cost of routine services furnished by a hospital during a calendar year (as determined under section 1883 of the Social Security Act) is less than the reasonable cost of such services determined under such section for the previous calendar year, the reasonable cost of such services furnished by the hospital during the calendar year under such section shall be equal to the reasonable cost determined under such section for the previous calendar year.

(C) The amendment made by subparagraph (A) shall apply to services furnished on or after October 1, 1990.

(b) ADMINISTRATION OF HOSPITAL PAYMENT SYSTEM.—

(1) UNIFORM REPORTING REQUIREMENTS FOR CERTAIN HOSPITALS.—

(A) REQUIREMENTS.—Each hospital described in subparagraph (B) shall, in accordance with the uniform system for reporting by medicare participating hospitals developed by the Secretary of Health and Human Services under section 4007(c) of the Omnibus Budget Reconciliation Act of 1987, report the information described in paragraph (2) of such section to the Secretary.

(B) HOSPITALS SUBJECT TO REQUIREMENT.—Each of the following hospitals is subject to the requirement of subparagraph (A):

(i) A hospital receiving an additional payment under section 1886(d)(5)(F) of the Social Security Act (relating to payments to disproportionate share hospitals).

(ii) A hospital classified by the Secretary of Health and Human Services as a sole community hospital under section 1886(d)(5)(D) of such Act.

(iii) A hospital classified by the Secretary as a regional referral center under section 1886(d)(5)(C) of such Act.

(iv) A hospital classified by the Secretary as a medicare-dependent, small rural hospital under section 1886(d)(5)(G) of such Act.

(v) A hospital designated by the Secretary as an essential access community hospital under section 1820(i)(1) of such Act.

(C) EFFECTIVE DATE.—The requirement of subparagraph (A) shall apply to hospitals with respect to cost reporting periods beginning on or after October 1, 1990.

(2) RESPONSIBILITIES AND REPORTING REQUIREMENTS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—

(A) EXPANSION OF RESPONSIBILITIES.—Section 1886(e)(2) of the Social Security Act (42 U.S.C. 1395ww(e)(2)) is amended—

(i) by striking "(2)" and inserting "(2)(A)"; and

(ii) by adding at the end the following new subparagraphs:

"(B) In order to promote the efficient and effective delivery of high-quality health care services, the Commission shall, in addition to carrying out its functions under subparagraph (A), study and make recommendations for each fiscal year to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates and the development of new institutional reimbursement policies under this title, including recommendations relating to—

"(i) payments during such fiscal year under the prospective payment system established under this section for determining payments for the operating costs of inpatient hospital services, including changes in the number of diagnosis-related groups used to classify inpatient hospital discharges under subsection (d), adjustments to such groups to reflect severity of illness, and changes in the methods by which hospitals are reimbursed for capital-related costs, together with general recommendations on the effectiveness and quality of health care delivery systems in the United States and the effects on such systems of institutional reimbursements under this title;

"(ii) payments to hospitals located in large urban areas, including the appropriate treatment of bad debt and charity care and the relation between payments to hospitals under this section and payments under programs that reimburse hospitals for providing inpatient care to low-income individuals;

"(iii) payments to hospitals located in rural areas, including appropriate responses to problems relating to low hospital occupancy rates, the quality of care provided by such hospitals, and the access of individuals living in rural areas to high-quality health care services; and

"(iv) changes in the insurance program established by this title that will constrain the costs to private employers of providing health care to employees.

"(C) By not later than June 1 before the beginning of each fiscal year, the Commission shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives containing a description of its activities during the preceding fiscal year.".

(B) REPORTING REQUIREMENTS FOR COMMISSION AND SECRETARY; ELIMINATION OF OTA REPORTING REQUIREMENTS.—Section 1886 of such Act (42 U.S.C. 1395ww) is amended—

(i) by striking subparagraph (D) of subsection (d)(4);

(ii) in the second sentence of subsection (e)(2)(A), as amended by paragraph (1)(A), by striking "In addition" and all that follows through "the Commission" and inserting "The Commission";

(iii) in subsection (e)(3)(A)—

(I) by striking "the Secretary" and inserting "the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives", and

(II) by striking the period at the end and inserting the following: ", together with its

general recommendations under paragraph (2)(B)(i) regarding the effectiveness and quality of health care delivery systems in the United States.";

(iv) in subsection (e)(4)—

(I) by striking "(4)" and inserting "(4)(A)", and

(II) by adding at the end the following new subparagraph:

"(B) In addition to the recommendation made under subparagraph (A), the Secretary shall, taking into consideration the recommendations of the Commission under paragraph (2)(B), recommend for each fiscal year (beginning with fiscal year 1992) other appropriate changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates.";

(v) in subsection (e)(5)—

(I) by striking "recommendation" each place it appears and inserting "recommendations", and

(II) by adding at the end the following new sentence: "To the extent that the Secretary's recommendations under paragraph (4) differ from the Commission's recommendations for that fiscal year, the Secretary shall include in the publication referred to in subparagraph (A) an explanation of the Secretary's grounds for not following the Commission's recommendations."; and

(vi) in subsection (e)(6)(G)—

(I) by striking clause (i), and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii).

(C) COMPOSITION OF COMMISSION.—Section 1886(e)(6)(B) of such Act (42 U.S.C. 1395ww(e)(6)(B)) is amended—

(i) by striking "professionals" and inserting "professions"; and

(ii) by striking "including physicians" and inserting "including (but not limited to) physicians".

(D) CONFORMING AMENDMENT.—Section 1845(c)(1)(D) of such Act (42 U.S.C. 1395w-1(c)(1)(D)) is amended by striking "reports and".

(E) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the date of the enactment of this Act.

SEC. 12003. EXPANSION OF DRG PAYMENT WINDOW.

(a) IN GENERAL.—The first sentence of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended by striking the period and inserting the following: ", and includes the costs of all services for which payment may be made under this title that are provided by the hospital to the patient during the 72-hour period ending on the date of the patient's admission.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1991.

SEC. 12004. PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS.

(a) DETERMINATION OF FULL-TIME-EQUIVALENT RESIDENTS.—

(1) TREATMENT OF PRIMARY CARE AND NON-PRIMARY CARE RESIDENTS IN INITIAL RESIDENCY PERIOD.—Section 1886(h)(4)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(C)(ii)) is amended by striking "is 1.00," and inserting the following: "is—

"(I) 1.1, in the case of a resident who is a primary care resident;

"(II) 1.0, in the case of a resident who is not a primary care resident and who specializes in internal medicine or pediatrics; or

"(III) .75, in the case of a resident not described in subclauses (I) or (II),".

(2) WEIGHTING FACTOR AFTER INITIAL RESIDENCY PERIOD.—Section 1886(h)(4)(C)(iv) of such Act (42 U.S.C. 1395ww(h)(4)(C)(iv)) is amended by striking ".50" and inserting ".60".

(3) DEFINITION.—Section 1886(h)(5) of such Act (42 U.S.C. 1395ww(h)(5)) is amended—

(A) by redesignating subparagraph (H) as subparagraph (I); and

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

"(H) PRIMARY CARE RESIDENT.—The term 'primary care resident' means (in accordance with criteria established by the Secretary) a resident being trained in a distinct program of family practice medicine, general internal medicine, or general pediatrics.".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) shall apply to cost reporting periods beginning on or after October 1, 1990.

(b) CAP ON APPROVED FTE RESIDENT AMOUNTS.—Section 1886(h)(2)(D) of such Act (42 U.S.C. 1395ww(h)(2)(D)) is amended by striking the period at the end and inserting the following: ", except that the approved FTE resident amount for the hospital may not exceed—

"(i) for cost reporting periods beginning in fiscal year 1992, 200 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period;

"(ii) for cost reporting periods beginning in fiscal year 1993, 175 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period; and

"(iii) for cost reporting periods beginning in fiscal year 1994 or any subsequent fiscal year, 150 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period.".

SEC. 12005. PPS-EXEMPT HOSPITALS.

(a) REDUCTION IN PAYMENT FOR CAPITAL-RELATED COSTS.—Section 1886(g)(3) of the Social Security Act (42 U.S.C. 1395ww(g)(3)) is amended by adding at the end the following new subparagraph:

"(C) In determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services of a hospital that is not described in subparagraph (A), the Secretary shall reduce the amount of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1991 or fiscal year 1992.".

(b) DEVELOPMENT OF NATIONAL PROSPECTIVE PAYMENT RATES FOR CURRENT NON-PPS HOSPITALS.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current system under which hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) receive payment for the operating and capital-related costs of inpatient hospital services under part A of the medicare program or a proposal to replace such system with a system under which such payments would be made on the basis of nationally-determined average standardized amounts. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall—

(A) take into consideration the need to provide for appropriate limits on increases in expenditures under the medicare program;

(B) provide for adjustments to prospectively determined rates to account for changes in a hospital's case mix, severity of illness of patients, volume of cases, and the development of new technologies and standards of medical practice;

(C) take into consideration the need to increase the payment otherwise made under such system in the case of services provided to patients whose length of stay or costs of treatment greatly exceed the length of stay or cost of treatment provided for under the applicable prospectively determined payment rate;

(D) take into consideration the need to increase payments under the system to hospitals that treat a disproportionate share of low-income patients, teaching hospitals, and hospitals located in geographic areas with high wages and wage-related costs; and

(E) provide for the appropriate allocation of operating and capital-related costs of hospitals not subject to the new prospective payment system and distinct units of such hospitals that would be paid under such system.

(2) REPORTS.—(A) By not later than February 1, 1991, the Secretary shall submit the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(B) By not later than May 1, 1991, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) APPEALS OF TARGET AMOUNTS.—

(1) DEADLINES FOR REVIEW AND DECISION.—(A) Section 1816(f) of the Social Security Act (42 U.S.C. 1395h(f)) is amended—

(i) by striking "(1)" and "(2)" and inserting "(A)" and "(B)";

(ii) by striking "(f)" and inserting "(f)(1)"; and

(iii) by striking "Such standards and criteria" and all that follows and inserting the following:

"(2) The standards and criteria established under paragraph (1) shall include—

"(A) with respect to claims for services furnished under this part by any provider of services other than a hospital—

"(i) whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days, and

"(ii) the extent to which such agency or organization's determinations are reversed on appeal; and

"(B) with respect to applications for a reconsideration of the target amount applicable under section 1886(b) to a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B))—

'(i) if such agency or organization receives a completed application, whether such agency or organization is able to process such application not later than 60 days after the application is filed, and

"(ii) if such agency or organization receives an incomplete application, whether such agency or organization is able to return the application with instructions on how to complete the application not later than 60 days after the application is filed.".

(B) Section 1886(b)(4)(A) of such Act (42 U.S.C. 1395ww(b)(4)(A)) is amended by adding at the end the following new sen-

tence: "The Secretary shall announce a decision on any request for an exemption, exception, or adjustment under this paragraph not later than 120 days after receiving a completed application for such exemption, exception, or adjustment, and shall include in such decision a detailed explanation of the grounds on which such request was approved or denied.".

(2) STANDARDS FOR ASSIGNMENT OF NEW BASE PERIOD.—Section 1886(b)(4) of such Act (42 U.S.C. 1395ww(b)(4)) is amended—

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

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) In determining under subparagraph (A) whether to assign a new base period which is more representative of the reasonable and necessary cost to a hospital of providing inpatient services, the Secretary shall take into consideration—

"(i) changes in applicable technologies, medical practices, or case mix severity that increase the hospital's costs;

"(ii) whether increases in wages and wage-related costs in the geographic area in which the hospital is located exceed the average of the increases in such costs paid by hospitals in the United States; and

"(iii) such other factors as the Secretary considers appropriate in determining increases in the hospital's costs of providing inpatient services.".

(3) GUIDANCE TO INTERMEDIARIES AND HOSPITALS.—The Administrator of the Health Care Financing Administration shall provide guidance to agencies and organizations performing functions pursuant to section 1816 of the Social Security Act and to hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of such Act) to assist such agencies, organizations, and hospitals in filing complete applications with the Administrator for exemptions, exceptions, and adjustments under section 1886(b)(4)(A) of such Act.

(4) EFFECTIVE DATES.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act, and the amendments made by paragraph (2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

SEC. 12006. FREEZE IN PAYMENTS UNDER PART A THROUGH DECEMBER 31.

(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the amount of payment for items or services under part A of title XVIII of the Social Security Act (including payments under section 1886 of such Act attributable to or allocated under such part) during the period described in subsection (b):

(1) The market basket percentage increase (described in section 1886(b)(3)(B)(iii) of the Social Security Act shall be deemed to be 0 for discharges occurring during such period.

(2) The percentage increase or decrease in the medical care expenditure category of the consumer price index applicable under section 1814(i)(2)(B) of such Act shall be deemed to be 0.

(3) The area wage index applicable to a subsection (d) hospital under section 1886(d)(3)(E) of such Act shall be deemed to be the area wage index applicable to such hospital as of September 30, 1990.

(4) The percentage change in the consumer price index applicable under section 1886(h)(2)(D) of such Act shall be deemed to be 0.

(b) DESCRIPTION OF PERIOD.—The period referred to in subsection (a) is the period beginning on November 1, 1990, and ending on December 31, 1990.

Subtitle B—Provisions Relating to Medicare Part B

PART 1—PAYMENT FOR PHYSICIANS' SERVICES

SEC. 12101. REDUCTION IN PAYMENTS FOR OVERPRICED PROCEDURES.

(a) PREVIOUSLY IDENTIFIED PROCEDURES.—

(1) IN GENERAL.—Section 1842(b)(14) of the Social Security Act (42 U.S.C. 1395u(b)(14)) is amended—

(A) in subparagraph (A), by inserting "(i)" after "(14)(A)", and by adding at the end the following new clause:

"(ii) In determining the reasonable charge for a physicians' service specified in subparagraph (C)(i) and furnished during 1991, the prevailing charge for such service shall be the prevailing charge otherwise recognized for such service for the period during 1990 beginning on April 1, reduced by the same amount as the amount of the reduction effected under this paragraph (as amended by the Omnibus Budget Reconciliation Act of 1990) for such service during such period.";

(B) in subparagraph (B)(iii)(I), by striking "practice expense ratio for the service (specified in table #1 in the Joint Explanatory Statement referred to in subparagraph (C)(i))" and inserting "practice expense component (percent), divided by 100, specified in Appendix A (pages 187 through 194) of the Report of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1989, prepared by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives (Committee Print 101-M, 101st Congress, 1st Session) for the service";

(C) in subparagraph (B)(iii)(II), by striking "practice expense ratio" and inserting "practice expense component (percent), divided by 100";

(D) in subparagraph (C)(i), by striking "physicians' services specified in table #2 in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 3299 (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress," and inserting "procedures listed (by code and description) in the Overvalued Procedures List for Finance Committee, Revised September 20, 1989, prepared by the Physician Payment Review Commission";

(E) in subparagraph (C)(iii), by striking "The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in table #2 in the Joint Explanatory Statement" and inserting "The 'percentage change' specified in this clause, for a physicians' service specified in clause (i), is the percent difference (but expressed as a positive number) specified for the service in the list"; and

(F) in subparagraph (C)(iv), by striking "such value specified for the locality in table #3 in the Joint Explanatory Statement referred to in clause (i)" and inserting "the Geographic Overhead Costs Index specified for the locality in table 1 of the September 1989 Supplement to the Geographic Medicare Economic Index: Alternative Approaches (prepared by the Urban Institute and the Center for Health Economics Research)".

(2) CONFORMING AMENDMENT.—Section 1842(b)(4)(E)(iv)(I) of such Act (42 U.S.C. 1395u(b)(4)(E)(iv)(I)) is amended by striking "Table #2" and all that follows through "101st Congress" and inserting "the list referred to in paragraph (14)(C)(i)".

(b) UNSURVEYED SURGICAL AND TECHNICAL PROCEDURES.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(16)(A) In determining the reasonable charge for all physicians' services other than physicians' services specified in subparagraph (B) furnished during 1991, the prevailing charge otherwise recognized for a locality shall be reduced by 5 percent.

"(B) For purposes of subparagraph (A), the physicians' services specified in this subparagraph are as follows:

"(i) Radiology, anesthesia and physician pathology services, and physicians' services specified in paragraph (14)(C)(i).

"(ii) Primary care services specified in subsection (i)(3).

"(iii) Hospital visits, consultations and second and third surgical opinions, preventive medicine visits, other visits, psychiatric services, emergency care facility services, and critical care services.

"(iv) Partial, simple and subcutaneous mastectomy; tendon sheath injections; small joint arthrocentesis; femoral fracture and trochanteric fracture treatments; endotracheal intubation; thoracentesis; thoracostomy; lobectomy; aneurysm repair; enterectomy; colectomy; cholecystectomy; cystourethroscopy; transurethral fulguration; transurerethral resection; sacral laminectomy; tympanoplasty with mastoidectomy; and ophthalmoscopy.".

(c) EFFECTIVE DATE.—(1) The amendments made by subsection (a)(1)(A) and (b) this Act shall apply to services furnished after December 1990.

(2) The amendments made by subsection (a) (other than by subsection (a)(1)(A)) apply to services furnished after March 1990.

SEC. 12102. PAYMENT FOR RADIOLOGY SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1834(b) of the Social Security Act (42 U.S.C. 1395m(b)) is amended—

(1) in paragraph (4), by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) 1991 FEE SCHEDULES.—For radiologist services furnished under this part during 1991, the conversion factors used in a locality under this subsection shall be determined as follows:

"(i) NATIONAL WEIGHTED AVERAGE CONVERSION FACTOR.—The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for services furnished during 1990 after March 31.

"(ii) REDUCED NATIONAL WEIGHTED AVERAGE.—The national weighted average estimated under clause (i) shall be reduced by 6 percent.

"(iii) LOCAL ADJUSTMENT.—Subject to clause (iv), the conversion factor to be applied to the professional or technical component of a service in a locality is the sum of—

"(I) the product of (a) the portion of the reduced national weighted average conversion factor computed under clause (ii) which is attributable to physician work and (b) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

"(II) the product of (a) the remaining portion of the reduced national weighted average conversion factor computed under clause (ii), and (b) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause with respect to the professional component of a service, 80 percent of the conversion factor shall be considered to be attributable to physician work

and with respect to the technical component of the service, 35 percent shall be considered to be attributable to physician work.

"(iv) MAXIMUM REDUCTION.—The conversion factor to be applied to a locality under this subparagraph to the professional or technical component of a service shall not be less than 85 percent of the conversion factor applied in the locality under subparagraph (C) to such component."; and

(2) in paragraph (1)(B), by inserting "or locality" after "service area".

(b) REDUCTION IN PREVAILING CHARGE LEVEL FOR OTHER RADIOLOGY SERVICES.—

(1) IN GENERAL.—In applying part B of title XVIII of the Social Security Act, the prevailing charge for physicians' services, furnished during 1991, which are radiology services may not exceed the fee schedule amount established under section 1834(b) of such Act with respect to such services.

(2) EXCEPTION.—Paragraph (1) shall not apply to radiology services for which payment is made on the basis of a fee schedule under section 1834(b) of the Social Security Act.

(c) REDUCTION IN RELATIVE VALUES OF TECHNICAL COMPONENTS OF CERTAIN SCANNING SERVICES.—Section 1834(b)(3) of the Social Security Act (42 U.S.C. 1395m(b)(3)) is amended by adding at the end the following:

"Under such relative value scale, the relative values established for the technical components of magnetic resonance imaging (MRI) services, and computer assisted tomography (CAT) services furnished after December 31, 1990, shall be 90 percent of the values established as of such date.".

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to services furnished on or after January 1, 1991.

(2) The amendment made by subsection (a)(2) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

SEC. 12103. ANESTHESIA SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1842(q)(1) of the Social Security Act (42 U.S.C. 1395u(q)(1)) is amended—

(1) by inserting "(A)" after "(q)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) For physician anesthesia services furnished under this part during 1991, the conversion factor used in a locality under this subsection shall be determined as follows:

"(i) The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for physician anesthesia services furnished during 1990 after March 31.

"(ii) The national weighted average estimated under clause (i) shall be reduced by 6 percent.

"(iii) Subject to clause (iv), the conversion factor to be applied in a locality is the sum of—

"(I) the product of (a) the portion of the reduced national weighted average conversion factor computed under clause (ii) which is attributable to physician work and (b) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

"(II) the product of (a) the remaining portion of the reduced national weighted average conversion factor computed under clause (ii) and (b) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause, 70 percent of the conversion factor shall be considered to be attributable to physician work.

"(iv) The conversion factor to be applied to a locality under this subparagraph shall not be less than 85 percent of the conversion factor applied in the locality during 1990 after March 31.".

(b) EXTENSION OF REDUCTION FOR SUPERVISION OF CONCURRENT SERVICES.—Section 1842(b)(13) of such Act (42 U.S.C. 1395u(b)(13)) is amended—

(1) in subparagraph (A), by striking "1991" and inserting "1996", and

(2) in subparagraph (B), by striking "1991" and inserting "1996".

SEC. 12104. PATHOLOGY SERVICES.

(a) REDUCTION IN PAYMENTS FOR ANATOMIC PATHOLOGY SERVICES AND REPEAL OF FEE SCHEDULE.—Subsection (f) of section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended to read as follows:

"(f) In determining the reasonable charge under this part for anatomic pathology services furnished on or after January 1, 1991, the prevailing charge for such service shall be 94 percent of the prevailing charge otherwise used under this part for services furnished during 1990 after March 31 (taking into account the amendments made by the Omnibus Budget Reconciliation Act of 1990).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(1)(J) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking "or physician pathology services" and by striking "or section 1834(f), respectively".

(2) Section 1848(a)(1) of such Act (42 U.S.C. 1395w-4(a)(1)) is amended by striking "or 1834(f)".

(3) Section 4050 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

SEC. 12105. PAYMENTS FOR PHYSICIANS' SERVICES.

(a) PERCENTAGE INCREASE IN MEI FOR 1991.—

(1) Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended—

(A) in subparagraph (E), by adding at the end the following new clause:

"(v) For purposes of this part for items and services furnished in 1991, the percentage increase in the MEI is—

"(I) 0 percent for services (other than primary care services), and

"(II) such percentage increase in the MEI (as defined in subsection (i)(4)) as would be otherwise determined for primary care services (as defined in subsection (i)(4)).", and

(B) in subparagraph (A)(vi), by striking "50 percent" and inserting "75 percent".

(2) Section 1845 of such Act (42 U.S.C. 1395w-1) is amended—

(A) in subsection (a)(3), by striking "include physicians" and inserting "include (but need not be limited to) physicians";

(B) by striking subsection (b)(3);

(C) in subsection (b)(2)—

(i) by striking "and" at the end of subparagraph (H),

(ii) by striking the period at the end of subparagraph (I) and inserting a semicolon,

(iii) by striking subparagraphs (A), (B), (C), and (F),

(iv) by redesignating subparagraphs (D), (E), (G), (H), and (I) as subparagraphs (A), (B), (C), (D), and (E), and

(v) by adding at the end the following new subparagraphs:

"(F) make recommendations regarding major issues in the implementation of the resource-based relative value scale established under section 1848(c);

"(G) make recommendations regarding further development of the volume performance standards established under section 1848(f), including the development of State-based programs;

"(H) consider policies to provide payment incentives to increase patient access to primary care and other physician services in large urban and rural areas, including policies regarding payments to physicians pursuant to title XIX;

"(I) review and consider the number and practice specialities of physicians in training and payments under this title for graduate medical education costs;

"(J) make recommendations regarding issues relating to utilization review and quality of care, including the effectiveness of peer review procedures and other quality assurance programs applicable to physicians and providers under this title and physician certification and licensing standards and procedures;

"(K) make recommendations regarding options to help constrain the costs of health insurance to employers, including incentives under this title; and

"(L) make recommendations regarding medical malpractice liability reform and physician certification and licensing standards and procedures."; and

(D) by striking subsection (e) and redesignating subsection (f) as subsection (e).

(b) LIMITING UPDATE IN CUSTOMARY CHARGES FOR 1991.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended—

(1) in paragraph (4)(B), by adding at the end the following new clause:

"(iv) In determining the reasonable charge under paragraph (3) for physicians' services (other than primary care services, as defined in subsection (i)(4)) furnished during 1991, the customary charges shall be the same customary charges as were recognized under this section for the 9-month period beginning April 1, 1990. In a case in which subparagraph (F) applies (relating to new physicians) so as to limit the customary charges of a physician during 1990 to a percent of prevailing charges, the previous sentence shall not prevent such limit on customary charges under such subparagraph from increasing in 1991 to a higher percent of such prevailing charges."; and

(2) in paragraph (2)(A), by striking "section 1845(f)(2)" and inserting "section 1845(e)(2)".

(c) CHANGE IN PAYMENT FOR YEARS AFTER 1991.—

(1) IN GENERAL.—Section 1848 of such Act (42 U.S.C. 1395w-4) is amended—

(A) in subsection (d)(3)(A)—

(i) in clause (i), by inserting "except as provided in clause (iii)," after "subparagraph (B),", and

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

"(iii) ADJUSTMENT IN PERCENTAGE INCREASE.—In applying clause (i) for services furnished in 1992 for which the appropriate update index is the index described in clause (ii)(I), the percentage increase in the appropriate update index shall be reduced by 0.4 percentage points.";

(B) in subsection (a)(2)(A)(i), by inserting before the period at the end the following: ", or, if greater in the case of primary care services for which the prevailing charge level was increased under section 1842(b)(4)(A)(vi) as a result of the amendment made by section 12105(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1990, the prevailing charge level determined under section 1842(b)(4)(A)(vi) and applicable to services furnished in 1991";

(C) in subsection (a)(2)(D), by adding at the end the following new clause:

"(iii) TREATMENT OF PRIMARY CHARGE FLOOR.—The adjusted historical payment basis shall be determined as if the amendment made by section 12105(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 had not been made.";

(D) in subsection (f), by adding at the end of paragraph (1) the following new subparagraph:

"(E) PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEARS 1991 THROUGH 1995.—The performance standard rate of increase, for all physicians' services and for each category of physicians' services, for fiscal years 1991 through 1995 are equal to the sum of—

"(i) the Secretary's estimate of the weighted average percentage increase in the fees for all physicians' services or for the category of physicians' services, respectively under this part for calendar years included in the fiscal year involved,

"(ii) the Secretary's estimate of the percentage increase or decrease in the average number of individuals enrolled under this part (other than HMO enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) the Secretary's estimate of the average annual percentage growth in volume and intensity of all physicians' services under this part for the 5-fiscal-year period ending with the preceding fiscal year (based upon information contained in the most recent annual report made pursuant to section 1841(b)(2)), and

"(iv) the Secretary's estimate of the percentage increase of decrease in expenditures all for physicians' services or of the category of physicians' services, respectively, in the fiscal year (compared with the preceding fiscal year) which will result from changes in law or regulations and which is not taken into account in the percentage increase described in clause (i),

reduced by 1½ percentage points (for 1991) or by 2 percentage points (for subsequent years). In clause (i), the term 'fees' means, with respect to 1991, reasonable charges and, with respect to any succeeding year, fee schedule amounts.";

(E) in subsection (f)(2)(A)—

(i) by striking "1991" the first place it appears and inserting "1996",

(ii) by striking "each performance standard rate of increase" and inserting "the performance standard rate of increase, for all physicians' services and for each category of physicians' services,",

(iii) in clause (i), by striking "fees for physicians' services (as defined in subsection (f)(5)(A))" and inserting "fee schedule amounts for all physicians' services or for the category of physicians' services, respectively.",

(iv) in clause (iii), by inserting "all" before "physicians' services",

(v) in clause (iv), by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "all physicians' services or of the category of physicians' services, respectively,", and

(vi) by striking the last sentence;

(F) in subsection (f)(2)(B), by striking all that follows "the performance standard factor" and inserting "is 2 percentage points"; and

(G) in subsection (i), by adding at the end the following new paragraph:

"(2) NO COMPARABILITY ADJUSTMENT.—For radiology and anesthesia services for which payment under this part is determined under this section—

"(A) a carrier may not make any adjustment in the payment amount under section 1842(b)(3)(B) on the basis that the payment amount is higher than the charge applicable, for a comparable services and under comparable circumstances, to the policyholders and subscribers of the carrier,

"(B) no payment adjustment may be made under section 1842(b)(8), and

"(C) section 1842(b)(9) shall not apply .".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to services furnished on or after January 1, 1991.

(2) The amendments made by subsections (a)(2) and (b)(2) shall take effect on the date of the enactment of this Act.

SEC. 12106. TREATMENT OF NEW PHYSICIANS.

(a) EXTENSION OF CUSTOMARY CHARGE LIMIT.—

(1) Section 1842(b)(4)(F) of the Social Security Act (42 U.S.C. 1395u(b)(4)(F)) is amended by adding at the end the following: "For the second and third calendar years during which the first sentence of this subparagraph no longer applies, the Secretary shall set the customary charge at a level no higher than 90 and 95 percent, respectively, of the prevailing charge for the service.".

(2) Section 6108(a)(2) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(A) by inserting "or 1991" after "1990", and

(B) by inserting "or 1990" after "1989".

(b) APPLICATION UNDER RVS.—Section 1848(a) of such Act (42 U.S.C. 1395w-4(a)) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF NEW PHYSICIANS.—In the case of physicians' services furnished by a physician before the end of the physician's first full calendar year of furnishing services for which payment may be made under this part, and during each of the 3 succeeding years, the fee schedule amount to be applied shall be 80 percent, 85 percent, 90 percent, and 95 percent, respectively, of the fee schedule amount applicable to physicians who are not subject to this paragraph. The preceding sentence shall not apply to primary care services (as defined in section 1842(i)(4)) and services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) apply to services furnished in 1991 and thereafter which were subject to the first sentence of section 1842(b)(4)(F) of the Social Security Act in 1989 or thereafter.

(2) The amendment made by subsection (b) shall apply to services furnished after 1991.

SEC. 12107. PAYMENTS FOR ASSISTANTS AT SURGERY.

(a) REDUCTION FOR INFREQUENTLY USED SERVICES.—Section 1842(b)(7) of the Social Security Act (42 U.S.C. 1395u(b)(7)) is amended—

(1) in subparagraph (D)(iii), by inserting "consistent with subparagraph (E)" after "under this part", and

(2) by adding at the end the following new subparagraph:

"(E)(i) The Secretary shall determine, based on the most recent data available, for each surgical procedure (or class of surgical procedure) the national average percentage of such procedure performed under this part which involve the use of an assistant at surgery.

"(ii) If the percentage determined under clause (i) for a procedure is less than 50 percent, but not less than 25 percent, payment under this part for assistants at surgery involved in the procedure shall be based on 75 percent of the payment basis established if this subparagraph did not apply.

"(iii) If the percentage determined under clause (i) for a procedure is less than 25 percent, but not less than 5 percent, payment under this part for assistants at surgery involved in the procedure shall be based on 75 percent of the payment basis established if this subparagraph did not apply and payment may only be made under this part if the use of the assistant at surgery were authorized, before the performance of the procedure, by the appropriate utilization and quality control peer review organization under part B of title XI.

"(iv) If the percentage determined under clause (i) for a procedure is less than 5 percent, no payment shall be made under this part for services of an assistant at surgery involved in the procedure.".

(b) CONFORMING AMENDMENT.—Section 1862(a)(15) of such Act (42 U.S.C. 1395y(a)(15)) is amended—

(1) by inserting "(A)" after "(15)",

(2) by striking "; or" at the end and inserting ", or", and

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

"(B) which are for services of an assistant at surgery in a procedure described in section 1842(b)(7)(E)(iii), unless, before the procedure is performed, the appropriate utilization and quality control peer review organization (under part B of title XI) has approved of the use of such an assistant in the surgical procedure; or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 12108. INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Section 1848(b) of the Social Security Act (42 U.S.C. 1395w-4(b)) is amended by adding at the end the following new paragraph:

"(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—If payment is made under this part for a visit to a physician or consultation with a physician and, as part of or in conjunction with the visit or consultation there is an electrocardiogram performed or ordered to be performed, no separate payment may be made under this part with respect to the interpretation of the electrocardiogram and no physician may bill an individual enrolled under this part separately for such an interpretation. If a physician knowingly and willfully bills one or more individuals in violation of the previous sentence, the Secretary may apply sanctions against the physician or entity in accordance with section 1842(j)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1992. In applying section 1848(d)(1)(B) of the Social Security Act (in computing a hypothetical conversion factor for 1991), the Secretary shall compute such factor assuming that section 1848(b)(3) of such Act (as added by the amendment made by subsection (a)) had applied to physicians' services furnished during 1991.

PART 2—OTHER ITEMS AND SERVICES

SEC. 12111. PAYMENTS FOR HOSPITAL OUTPATIENT SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—

(1) IN GENERAL.—Section 1861(v)(1)(S)(ii)(I) of the Social Security Act (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "fiscal year 1990" and inserting "during the period beginning on October 1, 1989, and ending December 31, 1993".

(2) EXEMPTION FOR RURAL PRIMARY CARE HOSPITALS.—Section 1861(v)(1)(S)(ii)(II) of such Act (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "1886(d)(5)(D)(iii))." and inserting "1886(d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1))."

(b) REDUCTION IN REASONABLE COSTS OF HOSPITAL OUTPATIENT SERVICES.—

(1) IN GENERAL.—Section 1861(v)(1)(S)(ii) of such Act (42 U.S.C. 1395x(v)(1)(S)(ii)) is amended—

(A) in subclause (II)—

(i) by striking "Subclause (I)" and inserting "Subclauses (I) and (II)", and

(ii) by striking "capital-related costs of any hospital" and inserting "costs of hospital outpatient services provided by any hospital";

(B) in subclause (III)—

(i) by striking "subclause (I)" and inserting "subclauses (I) and (II)", and

(ii) by striking "capital-related" and inserting "the";

(C) by redesignating subclauses (II) and (III) as subclauses (III) and (IV); and

(D) by inserting after subclause (I) the following new subclause:

"(II) The Secretary shall reduce the reasonable cost of outpatient hospital services (other than the capital-related costs of such services) otherwise determined pursuant to section 1833(a)(2)(B)(i)(I) by 2 percent for payments attributable to portions of cost reporting periods during the period beginning on October 1, 1990, and ending December 31, 1993.".

(2) PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES.—

(A) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to replace the current system under which payment is made for hospital outpatient services under title XVIII of the Social Security Act with a system under which such payments would be made on the basis of prospectively determined rates. In developing any proposal under this paragraph, the Secretary shall consider—

(i) the need to provide for appropriate limits on increases in expenditures under the medicare program;

(ii) the need to adjust prospectively determined rates to account for changes in a hospital's outpatient case mix, severity of illness of patients, volume of cases, and the development of new technologies and standards of medical practice;

(iii) providing hospitals with incentives to control the costs of providing outpatient services;

(iv) the feasibility and appropriateness of including payment for outpatient services not currently paid on a cost-related basis under the medicare program (including clinical diagnostic laboratory tests and dialysis services) in the system;

(v) the need to increase payments under the system to hospitals that treat a disproportionate share of low-income patients, teaching hospitals, and hospitals located in geographic areas with high wages and wage-related costs;

(vi) the feasibility and appropriateness of bundling services into larger units, such as episodes or visits, in establishing the basic unit for making payments under the system; and

(vii) the feasibility and appropriateness of varying payments under the system on the basis of whether services are provided in a free-standing or hospital-based facility.

(B) REPORTS.—(i) By not later than January 1, 1991, the Administrator of the Health Care Financing Administration shall submit research findings relating to prospective payments for hospital outpatient services to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives.

(ii) By not later than September 1, 1991, the Secretary shall submit the proposal developed under subparagraph (A) to such Committees.

(iii) By not later than March 1, 1992, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under subparagraph (A) to such Committees.

(c) PAYMENTS FOR AMBULATORY SURGICAL PROCEDURES AND RADIOLOGY SERVICES.—

(1) MODIFICATION OF COST AND ASC PROPORTIONS OF ASC BLEND AMOUNTS.—

(A) IN GENERAL.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(i) in subclause (I), by striking "and 50 percent for other cost reporting periods." and inserting "50 percent for reporting periods beginning on or after October 1, 1988, and on or before December 31, 1990, and 33 percent for cost reporting periods beginning on or after January 1, 1991."; and

(ii) in subclause (II), by striking "and 50 percent for other cost reporting periods." and inserting "50 percent for reporting periods beginning on or after October 1, 1988, and on or before December 31, 1990, and 67 percent for cost reporting periods beginning on or after January 1, 1991.".

(B) EXTENSION OF ASC BLEND AMOUNTS FOR EYE AND EYE AND EAR SPECIALTY HOSPITALS.—The last sentence of section 1833(i)(3)(B)(ii) of such Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended by striking "in fiscal year 1989 or fiscal year 1990" and inserting "on or after October 1, 1988, and before January 1, 1995".

(2) MODIFICATION OF COST AND CHARGE PROPORTIONS FOR RADIOLOGY SERVICES.—Section 1833(n)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395l(n)(1)(B)(ii)(I)) is amended by striking the period at the end and inserting ", and such term means 33 percent in the case of outpatient radiology services for portions of cost reporting periods beginning on or after January 1, 1991.".

(3) 2-YEAR FREEZE IN ALLOWANCE FOR INTRAOCULAR LENSES.—Notwithstanding section 1833(i)(2)(A)(iii) of the Social Security Act, the amount of payment determined under such section for the insertion of an intraocular lens during or subsequent to cataract surgery furnished to an individual in an ambulatory surgical center on or after the date of the enactment of this Act and on or before December 31, 1992, shall be equal to $200.

(d) PAYMENTS TO HOSPITALS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS ASSOCIATED WITH PART B SERVICES.—

(1) ESTABLISHMENT OF CURRENT CRITERIA AS SEPARATE PART B PROVISION.—

(A) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(r) PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS.—

"(1) SUBSTITUTION OF SPECIAL PAYMENT RULES.—Notwithstanding section 1861(v), instead of any amounts that are otherwise payable under this title with respect to the reasonable costs of hospitals for direct graduate medical education costs associated with the provision of services under this part, the Secretary shall provide for payments for such costs from the Federal Supplementary Medical Insurance Trust Fund established under this part in accordance with paragraph (3) of this subsection, and shall provide for such payments in a manner that reasonably reflects the proportion of total direct graduate medical education costs of hospitals that are associated with this part.

"(2) DETERMINATION OF HOSPITAL-SPECIFIC APPROVED FTE RESIDENT AMOUNTS.—The Secretary shall determine, for each hospital with an approved medical residency training program, an approved FTE resident amount for each cost reporting period beginning on or after July 1, 1985, as follows:

"(A) DETERMINING ALLOWABLE AVERAGE COST PER FTE RESIDENT IN A HOSPITAL'S BASE PERIOD.—The Secretary shall determine, for the hospital's cost reporting period that began during fiscal year 1984, the average amount recognized as reasonable under this title for direct graduate medical education costs of the hospital for each full-time-equivalent resident.

"(B) UPDATING TO THE FIRST COST REPORTING PERIOD.—

"(i) IN GENERAL.—The Secretary shall update each average amount determined under subparagraph (A) by the percentage increase in the consumer price index during the 12-month cost reporting period described in such subparagraph.

"(ii) EXCEPTION.—The Secretary shall not perform an update under clause (i) in the case of a hospital if the hospital's reporting period, described in subparagraph (A), began on or after July 1, 1984, and before October 1, 1984.

"(C) AMOUNT FOR FIRST COST REPORTING PERIOD.—For the first cost reporting period of the hospital beginning on or after July 1, 1985, the approved FTE resident amount for the hospital is equal to the amount determined under subparagraph (B) increased by 1 percent.

"(D) AMOUNT FOR SUBSEQUENT COST REPORTING PERIODS.—For each subsequent cost reporting period, the approved FTE resident amount for the hospital is equal to the amount determined under this paragraph for the previous cost reporting period updated, through the midpoint of the period, by projecting the estimated percentage change in the consumer price index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous under- or over-estimations under this subparagraph in the projected percentage change in the consumer price index.

"(E) TREATMENT OF CERTAIN HOSPITALS.—In the case of a hospital that did not have an approved medical residency training program or was not participating in the program under this title for a cost reporting period beginning during fiscal year 1984, the Secretary shall, for the first such period for which it has such a residency training program and is participating under this title, provide for such approved FTE resident amount as the Secretary determines to be appropriate, based on approved FTE resident amounts for comparable programs.

"(3) HOSPITAL PAYMENT AMOUNT PER RESIDENT.—

"(A) IN GENERAL.—The payment amount, for a hospital cost reporting period beginning on or after July 1, 1985, is equal to the product of—

"(i) the aggregate approved amount (as defined in subparagraph (B)) for that period, and

"(ii) the hospital's medicare patient load (as defined in subparagraph (C)) for that period.

"(B) AGGREGATE APPROVED AMOUNT.—As used in this subparagraph (A), the term "aggregate approved amount" means, for a hospital cost reporting period, the product of—

"(i) the hospital's approved FTE resident amount (determined under paragraph (2)) for that period, and

"(ii) the weighted average number of full-time-equivalent residents (as determined under paragraph (4)) in the hospital's approved medical residency training programs in that period.

"(C) MEDICARE PATIENT LOAD.—As used in subparagraph (A), the term 'medicare patient load' means, with respect to a hospi-

tal's cost reporting period, the fraction of the total number of inpatient-bed-days (as established by the Secretary) during the period which are attributable to patients with respect to whom payment may be made under part A.

"(4) DETERMINATION OF FULL-TIME EQUIVALENT RESIDENTS.—

"(A) RULES.—The Secretary shall establish rules consistent with this paragraph for the computation of the number of full-time-equivalent residents in an approved medical residency training program.

"(B) ADJUSTMENT FOR PART-YEAR OR PART-TIME RESIDENTS.—Such rules shall take into account individuals who serve as residents for only a portion of a period with a hospital or simultaneously with more than one hospital.

"(C) WEIGHTING FACTORS FOR CERTAIN RESIDENTS.—Subject to subparagraph (D), such rules shall provide, in calculating the number of full-time-equivalent residents in an approved residency program—

"(i) before July 1, 1986, for each resident the weighting factor is 1.00,

"(ii) on or after July 1, 1986, for a resident who is in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is 1.00,

"(iii) on or after July 1, 1986, and before July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .75, and

"(iv) on or after July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .50.

"(D) FOREIGN MEDICAL GRADUATES REQUIRED TO PASS FMGEMS EXAMINATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), such rules shall provide that, in the case of an individual who is a foreign medical graduate (as defined in paragraph (5)(D)), the individual shall not be counted as a resident on or after July 1, 1986, unless—

"(I) the individual has passed the FMGEMS examination (as defined in paragraph (5)(E)), or

"(II) the individual has previously received certification from, or has previously passed the examination of, the Educational Commission for Foreign Medical Graduates.

"(ii) TRANSITION FOR CURRENT FMGS.—On or after July 1, 1986, but before July 1, 1987, in the case of a foreign medical graduate who—

"(I) has served as a resident before July 1, 1986, and is serving as a resident after that date, but

"(II) has not passed the FMGEMS examination or a previous examination of the Educational Commission for Foreign Medical Graduates before July 1, 1986,

the individual shall be counted as a resident at a rate equal to one-half of the rate at which the individual would otherwise be counted.

"(E) COUNTING TIME SPENT IN OUTPATIENT SETTINGS.—Such rules shall provide that only time spent in activities relating to patient care shall be counted and that all the time so spent by a resident under an approved medical residency training program shall be counted toward the determination of full-time equivalency, without regard to the setting in which the activities are performed, if the hospital incurs all, or substantially all, of the costs for the training program in that setting.

"(5) DEFINITIONS AND SPECIAL RULES.—As used in this subsection:

"(A) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term 'approved medical residency training program' means a residency or other postgraduate medical training program participation in which may be counted toward certification in a specialty or subspecialty and includes formal postgraduate training programs in geriatric medicine approved by the Secretary.

"(B) CONSUMER PRICE INDEX.—The term 'consumer price index' refers to the Consumer Price Index for all Urban Consumers (United States city average), as published by the Secretary of Commerce.

"(C) DIRECT GRADUATE MEDICAL EDUCATION COSTS.—The term 'direct graduate medical education costs' means direct costs of approved educational activities for approved medical residency training programs.

"(D) FOREIGN MEDICAL GRADUATE.—The term 'foreign medical graduate' means a resident who is not a graduate of—

"(i) a school of medicine accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges (or approved by such committee as meeting the standards necessary for such accreditation),

"(ii) a school osteopathy accredited by the American Osteopathic Association, or approved by such Association as meeting the standards necessary for such accreditation, or

"(iii) a school of dentistry or podiatry which is accredited (or meets the standards for accreditation) by an organization recognized by the Secretary for such purpose.

"(E) FMGEMS EXAMINATION.—The term 'FMGEMS examination' means parts I and II of the Foreign Medical Graduate Examination in the Medical Sciences recognized by the Secretary for this purpose.

"(F) INITIAL RESIDENCY PERIOD.—The term 'initial residency period' means the period of board eligibility plus one year, except that—

"(i) except as provided in clause (ii), in no case shall the initial period of residency exceed an aggregate period of formal training of more than five years for any individual, and

"(ii) a period, of not more than two years, during which an individual is in a geriatric residency or fellowship program which meets such criteria as the Secretary may establish, shall be treated as part of the initial residency period, but shall be counted against any limitation on the initial residency period.

The initial residency period shall be determined, with respect to a resident, as of the time the resident enters the residency training program.

"(G) PERIOD OF BOARD ELIGIBILITY.—

"(i) GENERAL RULE.—Subject to clauses (i) and (iii), the term 'period of board eligibility' means, for a resident, the minimum number of years of formal training necessary to satisfy the requirements for initial board eligibility in the particular specialty for which the resident is training.

"(ii) APPLICATION OF 1985-1986 DIRECTORY.—Except as provided in clause (iii), the period of board eligibility shall be such period specified in the 1985-1986 Directory of Residency Training Programs published by the Accreditation Council on Graduate Medical Education.

"(iii) CHANGES IN PERIOD OF BOARD ELIGIBILITY.—On or after July 1, 1989, if the Accreditation Council on Graduate Medical Education, in its Directory of Residency Training Programs—

"(I) increases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, above the period specified in its 1985-1986 Directory, the Secretary may increase the period of board eligibility for that specialty, but not to exceed the period of board eligibility specified in that later Directory, or

"(II) decreases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, below the period specified in its 1985-1986 Directory, the Secretary may decrease the period of board eligibility for that specialty, but not below the period of board eligibility specified in that later Directory.

"(H) RESIDENT.—The term 'resident' includes an intern or other participant in an approved medical residency training program.".

(B) CONFORMING AMENDMENT.—Section 1886(h)(1) of such Act (42 U.S.C. 1395ww(h)(1)) is amended by striking "costs, the Secretary" and all that follows and inserting the following: "costs associated with the provision of services under part A, the Secretary shall provide for payments for such costs from the Federal Hospital Insurance Trust Fund in accordance with paragraph (3) of this subsection, and shall provide for such payments in a manner that reasonably reflects the proportion of total direct graduate medical education costs of hospitals that are associated with part A.".

(C) EFFECTIVE DATE.—The amendments made by subparagraphs (A) and (B) shall take effect as if included in the enactment of section 9202(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, and section 1833(r) of the Social Security Act, as added by subparagraph (A), shall be administered, as of any date before the date of the enactment of this Act, in the same manner as section 1886(h) was administered as of such date.

(2) MODIFICATIONS IN PAYMENT RULES FOR SUBSEQUENT COST REPORTING PERIODS.—

(A) DETERMINATION OF FULL-TIME-EQUIVALENT RESIDENTS.—

(i) TREATMENT OF PRIMARY CARE AND NON-PRIMARY CARE RESIDENTS IN INITIAL RESIDENCY PERIOD.—Section 1833(r)(4)(C)(ii) of such Act, as added by paragraph (1)(A), is amended by striking "is 1.00," and inserting the following: "is—

"(I) 1.1, in the case of a resident who is a primary care resident;

"(II) 1.0, in the case of a resident who is not a primary care resident and who specializes in internal medicine or pediatrics; or

"(III) .90, in the case of a resident not described in subclauses (I) or (II),".

(ii) WEIGHTING FACTOR AFTER INITIAL RESIDENCY PERIOD.—Section 1833(r)(4)(C)(iv) of such Act, as added by paragraph (1)(A), is amended by striking ".50" and inserting ".80".

(iii) DEFINITION.—Section 1833(r)(5) of such Act, as added by paragraph (1)(A), is amended—

(I) by redesignating subparagraph (H) as subparagraph (I); and

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

"(H) PRIMARY CARE RESIDENT.—The term 'primary care resident' means (in accordance with criteria established by the Secretary) a resident being trained in a distinct program of family practice medicine, general internal medicine, or general pediatrics.".

(iv) EFFECTIVE DATE.—The amendments made by clauses (i), (ii), and (iii) shall apply to portions of cost reporting periods occurring on or after October 1, 1990.

(B) CAP ON APPROVED FTE RESIDENT AMOUNTS.—Section 1833(r)(2)(D) of such Act, as added by paragraph (1)(A), is amended by striking the period at the end and inserting the following: "; except that the approved FTE resident amount for the hospital may not exceed—

"(i) for cost reporting periods beginning in fiscal year 1992, 200 percent,

"(ii) for cost reporting periods beginning in fiscal year 1993, 175 percent, or

"(iii) for cost reporting periods beginning in fiscal year 1994 or any subsequent fiscal year, 150 percent,

of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in the fiscal year involved, adjusted by the area wage index applicable to the hospital under section 1886(d)(3)(E) during such cost reporting period.".

SEC. 12112. DURABLE MEDICAL EQUIPMENT.

(a) OVER-PRICED AND OVER-UTILIZED ITEMS AND SERVICES.—

(1) 15 PERCENT REDUCTION IN PAYMENTS FOR SEAT-LIFT CHAIRS AND TRANSCUTANEOUS ELECTRICAL NERVE STIMULATORS.—Section 1834(a)(1)(D) of the Social Security Act (42 U.S.C. 1395m(a)(1)(D)) is amended by inserting before the period at the end the following: ", and, if furnished on or after January 1, 1991, the Secretary shall further reduce such payment amount (as previously reduced) by 15 percent".

(2) PROHIBITION AGAINST DISTRIBUTION OF MEDICAL NECESSITY FORMS BY SUPPLIERS.—

(A) IN GENERAL.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(15) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF FORMS DOCUMENTING MEDICAL NECESSITY.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not distribute to individuals entitled to benefits under this part for commercial purposes any completed or partially completed forms or other documents required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(B) PENALTY.—Any supplier of a covered item who knowingly and willfully distributes a form or other document in violation of subparagraph (A) is subject to a civil money penalty in an amount not to exceed $1,000 for each such form or document so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to forms and documents distributed on or after January 1, 1991.

(3) CARRIER DETERMINATIONS OF COVERAGE OF CERTAIN ITEMS IN ADVANCE.—

(A) IN GENERAL.—Section 1834(a)(11) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS OF COVERAGE OF CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for a covered item for which payment is made under this subsection may not be made because of the application of section 1862(a)(1) if—

"(i) the item is a customized item; or

"(ii) the item is a specified covered item under subparagraph (B).".

(B) INCORPORATION OF TIMELINESS STANDARDS IN CARRIER PERFORMANCE REQUIREMENTS.—Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(C) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to items furnished on or after January 1, 1991, and the amendment made by subparagraph (B) shall apply to contracts entered into on or after January 1, 1991.

(4) SPECIAL SCRUTINY FOR POTENTIALLY OVERUSED ITEMS.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)), as amended by paragraph (2), is further amended by adding at the end the following new paragraph:

"(16) SPECIAL TREATMENT FOR POTENTIALLY OVERUSED ITEMS.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift chairs, trancutaneous electrical nerve stimulators, motorized scooters, and any such other item determined by the Secretary to be potentially overused on the basis of the following criteria:

"(i) The item is marketed directly to potential patients.

"(ii) The item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1)).

"(iii) The item has been subject to a consistent pattern of overutilization.

"(iv) A high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny.".

(b) DEVELOPMENT AND APPLICATION OF NATIONAL LIMITS ON FEES.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2) and (3) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended—

(A) in subparagraph (B)(i), by striking "or" at the end;

(B) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) in 1991 is the sum of (I) 67% of the local payment amount for the item or device computed under subparagraph (C)(i)(I) for 1991, and (II) 33% of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1991;

"(iii) in 1992 is the sum of (I) 33% of the local payment amount for the item or device computed under subparagraph (C)(i)(II) for 1992, and (II) 67% of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1992; and

"(iv) in 1993 and each subsequent year is the national limited payment amount for the item or device computed under subparagraph (C)(ii) for that year."; and

(C) by adding at the end the following new subparagraph:

"(C) COMPUTATION OF LOCAL PAYMENT AMOUNT AND NATIONAL LIMITED PAYMENT AMOUNT.—For purposes of subparagraph (B)—

"(i) the local payment amount for an item or device for a year is equal to—

"(I) for 1991, the amount specified in subparagraph (B)(i) for 1990 adjusted by the covered item update for 1991, and

"(II) for 1992, the amount determined under this clause for the preceding year adjusted by the covered item update for 1992; and

"(ii) the national limited payment amount for an item or device for a year is equal to—

"(I) for 1991 and 1992, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the weighted average of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the weighted average of all local payment amounts determined under such clause for such item, and

"(II) for each subsequent year, the amount determined under this clause for the preceding year adjusted by the covered item update for such subsequent year.".

(2) MISCELLANEOUS ITEMS AND OTHER COVERED ITEMS.—Section 1834(a)(8) of such Act (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)—

(i) by striking "or" at the end of subclause (I);

(ii) in subclause (II)—

(I) by striking "1991 or", and

(II) by striking "increased by the percentage increase" and all that follows through the period and inserting "adjusted by the covered item update for the year.";

(iii) by redesignating subclause (II) as subclause (III); and

(iv) by inserting after subclause (I) the following new subclause:

"(II) in 1991, equal to the local purchase price computed under this clause for the previous year, adjusted by the covered item update for 1991, and decreased by the percentage by which the average of the purchase prices submitted exceeds the average of the reasonable charges on claims paid for the item during the 6-month period ending with December 1986; or";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

"(i) for 1991 and 1992, equal to the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year adjusted by the covered item update for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional purchase price" each place it appears and inserting "national limited purchase price",

(ii) by striking "and subject to subparagraph (D)",

(iii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iv) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33"; and

(II) in subclause (II), by striking "50" and inserting "67"; and

(D) by striking subparagraph (D).

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) of such Act (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "increased by the percentage increase" and all that follows through the period and inserting "adjusted by the covered item update for the year.";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in a year, the Secretary shall compute a national limited monthly payment rate equal to—

"(i) for 1991 and 1992, the local monthly payment rate computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year adjusted by the covered item update for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional monthly payment rate" each place it appears and inserting "national limited monthly payment rate",

(ii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iii) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33"; and

(II) in subclause (II), by striking "50" and inserting "67"; and

(D) by striking subparagraph (D).

(4) DEFINITION.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (13) the following new paragraph:

"(14) COVERED ITEM UPDATE.—In this subsection, the term 'covered item update' means, with respect to a year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.".

(5) CONFORMING AMENDMENT.—Section 1834(a)(12) of such Act (42 U.S.C. 1395m(a)(12)) is amended by striking "defined for purposes of paragraphs (8)(B) and (9)(B)".

(c) TREATMENT OF "RENTAL CAP" ITEMS.—

(1) DETERMINING PAYMENT AMOUNT ON BASIS OF CLAIMS PAID.—Section 1834(a)(8)(A)(i)(II) of such Act is amended by striking "average of the purchase prices on the claims submitted" and inserting "average of the reasonable charges on claims paid".

(2) LIMITATION ON MONTHLY RECOGNIZED RENTAL AMOUNTS FOR MISCELLANEOUS ITEMS.—Section 1834(a)(7)(A)(i) of such Act (42 U.S.C. 1395m(a)(7)(A)(i)) is amended—

(A) by striking "for each such month" and inserting "for each of the first 3 months of such period"; and

(B) by striking the semicolon at the end and inserting the following: ", and for each of the remaining months of such period is 7.5 percent of such purchase price:".

(3) OFFER OF OPTION TO PURCHASE FOR MISCELLANEOUS ITEMS; ESTABLISHMENT OF REASONABLE LIFETIME.—Section 1834(a)(7) of such Act (42 U.S.C. 1395m(a)(7)(A)) is amended—

(A) in subparagraph (A)(i), by striking "15 [illegible]" and inserting "15 months, or, in the case of an item for which a purchase agreement has been entered into under clause (ii), a period of continuous use of longer than 13 months";

(B) in subparagraph (A)(ii)—

(i) by striking "(ii) during the succeeding 6-month period of medical need," and inserting "(iii) in the case of an item for which a purchase agreement has not been entered into under clause (ii), during the first 6-month period of medical need that follows the period of medical need during which payment is made under clause (i),", and

(ii) by striking "and" at the end;

(C) in subparagraph (A)(iii)—

(i) by striking "(iii)" and inserting "(iv) in the case of an item for which a purchase agreement has not been entered into under clause (ii),", and

(ii) by striking the period at the end and inserting "; and";

(D) by inserting after clause (i) of subparagraph (A) the following new clause:

"(ii) during the 10th continuous month during which payment is made for the rental of an item under clause (i), the supplier of such item shall offer the individual patient the option to enter into a purchase agreement under which, if the patient notifies the supplier not later than 1 month after the supplier makes such offer that the patient agrees to accept such offer and exercise such option—

"(I) the supplier shall transfer title to the item to the individual patient on the first day that begins after the 13th continuous month during which payment is made for the rental of the item under clause (i),

"(II) after the supplier transfers title to the item under subclause (I), maintenance and servicing payments shall be made in accordance with clause (v);";

(E) by inserting after clause (iv) of subparagraph (A) (as amended by subparagraph (C)) the following new clause:

"(v) in the case of an item for which a purchase agreement has been entered into under clause (ii), maintenance and servicing payments may be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment), and such payments shall be in an amount established by the Secretary on the basis of reasonble charges in the locality for maintenance and servicing."; and

(F) by adding at the end the following new subparagraph:

"(C) REPLACEMENT OF ITEMS.—

"(i) ESTABLISHMENT OF REASONABLE USEFUL LIFETIME.—In accordance with clause (iii), the Secretary shall determine and establish a reasonable useful lifetime for items of durable medical equipment for which payment may be made under this paragraph or paragraph (3).

"(ii) PAYMENT FOR REPLACEMENT ITEMS.—If the reasonable lifetime of such an item, as so established, has been reached during a continuous period of medical need, or the carrier determines that the item is lost or irreparably damaged, the patient may elect to have payment for an item serving as a replacement for such item made—

"(I) on a monthly basis for the rental of the replacement item in accordance with subparagraph (A); or

"(II) in the case of an item for which a purchase agreement has been entered into under subparagraph (A)(ii), in a lump-sum amount for the purchase of the item.

"(iii) LENGTH OF REASONABLE USEFUL LIFETIME.—The reasonable useful lifetime of an item of durable medical equipment under this subparagraph shall be equal to 5 years, except that, if the Secretary determines that, on the basis of prior experience in making payments for such an item under this title, a reasonable useful lifetime of 5 years is not appropriate with respect to a particular item, the Secretary shall establish an alternative reasonable lifetime for such item.".

(4) APPLICATION OF REASONABLE USEFUL LIFETIME FOR ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Section 1834(a)(3) of such Act (42 U.S.C. 1395m(a)(3)), as amended by subsection (b)(1), is further amended by adding at the end the following new subparagraph:

"(D) REPLACEMENT OF ITEMS.—If the reasonable useful lifetime of such an item, as established under paragraph (7)(C), has been reached during a continuous period of medical need, or the Secretary determines on the basis of investigation by the carrier that the item is lost or irreparably damaged, payment for an item serving as a replacement for such item shall be made on a monthly basis for the rental of the replacement item in accordance with subparagraph (A).".

(5) TREATMENT OF POWER-DRIVEN WHEELCHAIRS AS MISCELLANEOUS ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(A) IN GENERAL.—Section 1834(a)(2)(A) of such Act (42 U.S.C. 1395m(a)(2)(A)) is amended—

(i) in clause (i), by inserting "or" at the end;

(ii) in clause (ii), by striking "or" at the end; and

(iii) by striking clause (iii).

(B) CRITERIA FOR TREATMENT OF WHEELCHAIR AS CUSTOMIZED ITEM.—(i) Section 1834(a)(4) of such Act (42 U.S.C. 1395m(a)(4)) is amended by adding at the end the following: "In the case of a wheelchair furnished on or after January 1, 1992, the wheelchair shall be treated as a customized item for purposes of this paragraph if the wheelchair has been measured, fitted, or adapted in consideration of the patient's body size, disability, period of need, or intended use, and has been assembled by a supplier or ordered from a manufacturer who makes available customized features, modifications, or components for wheelchairs that are intended for an individual patient's use in accordance with instructions from the patient's physician.".

(ii) The amendment made by clause (i) shall apply to items furnished on or after January 1, 1992, unless the Secretary develops specific criteria before that date for the treatment of wheelchairs as customized items for purposes of section 1834(a)(4) of the Social Security Act (in which case the amendment made by such clause shall not become effective).

(d) RECERTIFICATION FOR CERTAIN PATIENTS RECEIVING HOME OXYGEN THERAPY SERVICES.—

(1) IN GENERAL.—Section 1834(a)(5) of such Act (42 U.S.C. 1395m(a)(5)) is amended—

(A) in subparagraph (A), by striking "(B) and (C)" and inserting "(B), (C), and (E)"; and

(B) by adding at the end the following new subparagraph:

"(E) RECERTIFICATION FOR PATIENTS RECEIVING HOME OXYGEN THERAPY.—No payment may be made under this part for home oxygen therapy services provided after the expiration of the 3-month period that begins on the date the patient first receives such services unless, in accordance with criteria developed by the Secretary in consultation with suppliers of such services, the patient's attending physician certifies that, on the basis of a follow-up test of the patient's arterial blood gas value or arterial oxygen saturation conducted during the

final 15 days of such 3-month period, there is a medical need for the patient to continue to receive such services. The Secretary shall permit suppliers of home oxygen therapy services to manage such follow-up testing process.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to patients who first receive home oxygen therapy services on or after January 1, 1991.

(e) UPDATES IN FEE SCHEDULES.—Section 1834(a)(14) of such Act, as added by subsection (b)(4), is amended by striking "to a year," and all that follows and inserting the following: "to a year—

"(A) for 1991 and 1992, a reduction of 1 percent; and

"(B) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.".

(f) FREEZE IN REASONABLE CHARGES FOR ENTERAL AND PARENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1991.—In determining the amount of payment under part B of title XVIII of the Social Security Act for enteral and parenteral nutrients, supplies, and equipment furnished during 1991, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such items for 1990.

(g) PAYMENTS FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

(1) MAINTAINING CURRENT PAYMENT METHODOLOGY.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(h) PAYMENT FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

"(1) GENERAL RULE FOR PAYMENT.—

"(A) IN GENERAL.—Payment under this subsection for prosthetic devices and orthotics and prosthetics shall be made in a lump-sum amount for the purchase of the item in an amount equal to 80 percent of the payment basis described in subparagraph (B).

"(B) PAYMENT BASIS.—Except as provided in subparagraph (C), the payment basis described in this subparagraph is the lesser of—

"(i) the actual charge for the item; or

"(ii) the amount recognized under paragraph (2) as the purchase price for the item.

"(C) EXCEPTION FOR CERTAIN PUBLIC HOME HEALTH AGENCIES.—Subparagraph (B)(i) shall not apply to an item furnished by a public home health agency (or by another home health agency which demonstrates to the satsifaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

"(D) EXCLUSIVE PAYMENT RULE.—This subsection shall constitute the exclusive provision of this title for payment for prosthetic devices, orthotics, and prosthetics under this part or under part A to a home health agency.

"(2) PURCHASE PRICE RECOGNIZED.—For purposes of paragraph (1), the amount that is recognized under this paragraph as the purchase price for prosthetic devices, orthotics, and prosthetics is the amount described in subparagraph (C) of this paragraph, determined as follows:

"(A) COMPUTATION OF LOCAL PURCHASE PRICE.—Each carrier under section 1842 shall compute a base local purchase price for the item as follows:

"(i) The carrier shall compute a base local purchase price for each item equal to the average reasonable charge in the locality for the purchase of the item for the 12-month period ending with June 1987.

"(ii) The carrier shall compute a local purchase price, with respect to the furnishing of each particular item—

"(I) in 1989 and 1990, equal to the base local purchase price computed under clause (i) increased by the percentage increase in the consumer price index for all urban consumers (United States city average) for the 6-month period ending with December 1987, or

"(II) in 1991, 1992 or 1993, equal to the local purchase price computed under this clause for the previous year increased by the applicable percentage increase for the year.

"(B) COMPUTATION OF REGIONAL PURCHASE PRICE.—With respect to the furnishing of a particular item in each region (as defined by the Secretary), the Secretary shall compute a regional purchase price—

"(i) for 1992 and for 1993, equal to the average (weighted by relative volume of all claims among carriers) of the local purchase prices for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional purchase price computed under this subparagraph for the previous year increased by the applicable percentage increase for the year.

"(C) PURCHASE PRICE RECOGNIZED.—For purposes of paragraph (1) and subject to subparagraph (D), the amount that is recognized under this paragraph as the purchase price for each item furnished—

"(i) in 1989, 1990, or 1991, is 100 percent of the local purchase price computed under subparagraph (A)(ii)(I);

"(ii) in 1992, is the sum of (I) 75 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1991, and (II) 25 percent of the regional purchase price computed under subparagraph (B) for 1991;

"(iii) in 1993, is the sum of (I) 50 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1992, and (II) 50 percent of the regional purchase price computed under subparagraph (B) for 1992; and

"(iv) in 1994 or a subsequent year, is the regional purchase price computed under subparagraph (B) for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the purchase price for an item furnished—

"(i) in 1991, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 120 percent, and may not be lower than 90 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO DURABLE MEDICAL EQUIPMENT.—Subparagraphs (A) and (B) of paragraph (10) and paragraph (11) of subsection (a) shall apply to prosthetic devices, orthotics, and prosthetics in the same manner as such provisions apply to covered items under such subsection.

"(4) DEFINITIONS.—In this subsection—

"(A) the term 'applicable percentage increase' means—

"(i) for 1991, 0 percent, and

"(ii) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;

"(B) the term 'prosthetic devices' has the meaning given such term in section 1861(s)(8), except that such term does not include parenteral and enteral nutrition nutrients, supplies, and equipment; and

"(C) the term 'orthotics and prosthetics' has the meaning given such term in section 1861(s)(9).".

(2) CONFORMING AMENDMENTS.—(A) Section 1832(a)(2) of such Act (42 U.S.C. 1395k(a)(2)) is amended—

(i) in subparagraphs (A) and (B), by striking "subparagraph (G)" each place it appears and inserting "subparagraph (G) or subparagraph (I)";

(ii) by striking "and" at the end of subparagraph (G);

(iii) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(I) prosthetic devices and orthotics and prosthetics (described in section 1834(h)(4)) furnished by a provider of services or by others under arrangements with them made by a provider of services.".

(B) Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1) is amended—

(i) by striking ", and (L)" and inserting ", (L)"; and

(ii) by striking "subparagraph and (N)" and inserting the following: "subparagraph, (M) with respect to prosthetic devices and orthotics and prosthetics (as defined in section 1834(h)(4)), the amounts paid shall be the amounts described in section 1834(h)(1), and (N)".

(C) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended—

(i) in paragraph (2), in the matter before subparagraph (A), by striking "and (H)" and inserting "(H), and (I)";

(ii) by striking "and" at the end of paragraph (5);

(iii) by striking the period at the end of paragraph (6) and inserting "; and"; and

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

"(7) in the case of prosthetic devices and orthotics and prosthetics (as described in section 1834(h)(4)), the amounts described in section 1834(h).".

(D) Section 1834(a) of such Act (42 U.S.C. 1395m(a)), is amended—

(i) in the heading, by striking ", Prosthetic Devices, Orthotics, and Prosthetics";

(ii) in paragraph (a)(2)(A), by striking "(13)(A)" and inserting "(13)"; and

(iii) in paragraph (13), by striking "means—" and all that follows and inserting the following: "means durable medical equipment (as defined in section 1861(n)), including such equipment described in section 1861(m)(5)), but does not include intraocular lenses or medical supplies (including catheters, catheter supplies, ostomy bags, and supplies related to ostomy care) furnished by a home health agency under section 1861(m)(5).".

(3) GAO STUDY OF MEDICARE PAYMENTS FOR PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—

(A) STUDY.—The Comptroller General shall conduct a study of payments for prosthetic devices, orthotics, and prosthetics under the medicare program. In conducting such study, the Comptroller General shall examine the effect of the development and implementation of the fee schedules established for such items under the program on payments for such items under the program to orthotists and prosthetists.

(B) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit a report on the study conducted under subparagraph (A) to the Committees on Energy and Commerce and Ways and Means of the House of Reresentatives and the Committee

on Finance of the Senate, and shall include in such report any recommendations regarding payments for prosthetic devices, orthotics, and prosthetics under the medicare program that the Comptroller General considers appropriate.

(h) EFFECTIVE DATE.—Except as otherwise provided in subsection (a)(2) and (a)(3), the amendments made by this section shall apply to items furnished on or after January 1, 1991.

SEC. 12113. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) CAP ON ANNUAL FEE SCHEDULE INCREASES.—Section 1833(h)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended—

(1) by striking "any other provision of this subsection" and inserting "clause (i)";

(2) by striking "and" at the end of subclause (I);

(3) by striking the period at the end of subclause (II) and inserting ", and"; and

(4) by adding at the end the following new subclause:

"(III) the Secretary shall reduce the annual adjustment in the fee schedules determined under clause (i) for each of the years 1991, 1992, and 1993 by 2 percent.".

(b) REDUCTION IN NATIONAL CAP.—

(1) IN GENERAL.—Section 1833(h)(4)(B) of such Act (42 U.S.C. 1395l(h)(4)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) in clause (iii), by inserting "and before January 1, 1991," after "1989,";

(C) by striking the period at the end of clause (iii) and inserting ", and"; and

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

"(iv) after December 31, 1990, is equal to 88 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(2) CLARIFICATION OF ASSIGNMENT FOR TESTS PERFORMED BY A PHYSICIAN OFFICE LABORATORY.—

(A) IN GENERAL.—(i) Section 1833(h)(5)(C) of such Act (42 U.S.C. 1395l(h)(5)(C)) is amended by striking "test performed by a laboratory other than a rural health clinic" and inserting "test, including a test performed in a physician's office but excluding a test performed by a rural health clinic,".

(ii) Section 1833(h)(5)(D) of such Act (42 U.S.C. 1395l(h)(5)(D)) is amended by striking "test performed by a laboratory, other than a rural health clinic," and inserting "test, including a test performed in a physician's office but excluding a test performed by a rural health clinic,".

(B) EFFECTIVE DATES.—The amendment made by subparagraph (A)(i) shall take effect as if included in the enactment of section 9303(b)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985, and the amendment made by subparagraph (A)(ii) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

SEC. 12114. REDUCTION IN PAYMENTS UNDER PART B DURING FINAL 2 MONTHS OF 1990.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any other provision of this Act, other than subsection (b)(4)), payments under part B of title XVIII of the Social Security Act for items and services furnished during the period beginning on November 1, 1990, and ending on December 31, 1990, shall be reduced by 1.4 percent, in accordance with subsection (b).

(b) SPECIAL RULES FOR APPLICATION OF REDUCTION.—

(1) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under part B of such title on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, the reduction made under subsection (a) shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the period described in such subsection, but only in the same proportion as the fraction of the cost reporting period that occurs during such period.

(2) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under subsection (a) for items or services for which payment under part B of such title is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1), of the Social Security Act, the person furnishing the items or services shall be considered to have accepted payment of the reasonable charge for the items or services, less any reduction in payment amount made under subsection (a), as payment in full.

(3) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under subsection (a).

(4) TREATMENT OF PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS.—Subsection (a) shall not apply to payments under risk-sharing contracts under section 1876 of the Social Security Act or under similar contracts under section 402 of the Social Security Amendments of 1967 or section 222 of the Social Security Amendments of 1972.

Subtitle C—Provisions Relating to Medicare Parts A and B

SEC. 12201. END STAGE RENAL DISEASE SERVICES.

(a) IN GENERAL.—

(1) Section 1881(b)(11) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended—

(A) by striking "(11)" and inserting "(11)(A)"; and

(B) by adding at the end the following new subparagraph:

"(B) Erythropoietin, when provided to a patient determined to have end stage renal disease, shall not be included as a dialysis service for purposes of payment under any prospective payment amount or comprehensive fee established under this section, and payment for such item shall be made separately—

"(i) in the case of erythropoietin provided by a physician, in accordance with section 1833; and

"(ii) in the case of erythropoietin provided by a provider of services, renal dialysis facility, or other supplier of home dialysis supplies and equipment—

"(I) for erythropoietin provided during 1991, in an amount not to exceed $11 per thousand units, except that the total payment for erythropoietin under this clause may not exceed $70, and

"(II) for erythropoietin provided during a subsequent year, in an amount equal to the amount determined under this clause for the previous year increased by the percentage increase (if any) in the implicit price deflator for gross national product (as published by the Department of Commerce) for the second quarter of the preceding year over the implicit price deflator for the second quarter of the second preceding year.".

(2) Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 6203(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(A) by striking "and before October 1, 1990" and inserting "and before January 1, 1996";

(B) by striking "equal to" and inserting "not less than"; and

(C) by striking "$2.00." and inserting "$2.00 and increased by the amount of the reduction made in such rate pursuant to section 6101 of the Omnibus Budget Reconciliation Act of 1989.".

(b) EFFECTIVE DATES.—(1) The amendments made by subsection (a)(1) shall apply to erythropoietin furnished to end stage renal disease patients on or after January 1, 1991.

(2) The amendment made by subsection (a)(2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 12202. EXTENSION OF SECONDARY PAYOR PROVISIONS.

(a) IDENTIFICATION OF MEDICARE SECONDARY PAYOR SITUATIONS.—

(1) Section 1862(b)(5)(C)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking "September 30, 1991" and inserting "September 30, 1995";

(B) in clause (ii)(I), by striking "1990" and inserting "1994"; and

(C) in clause (ii)(II), by striking "1991" and inserting "1995".

(b) MEDICARE SECONDARY PAYOR FOR THE DISABLED.—Section 1862(b)(1)(B)(iii) of such Act (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "January 1, 1992" and inserting "October 1, 1995".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment and the amendment made by subsection (a)(2)(B) shall apply to requests made on or after such date.

Subtitle D—Provisions Relating to Medicare Part B Premium and Deductible

SEC. 12301. PART B PREMIUM.

Section 1839(e)(1) of the Social Security Act (42 U.S.C. 1395r(e)(1)) is amended—

(1) by inserting "(A)" after "(e)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) Notwithstanding the provisions of subsection (a), the monthly premium for each individual enrolled under this part for each month in—

"(i) 1991 shall be $32.40,

"(ii) 1992 shall be $36.00,

"(iii) 1993 shall be $40.50,

"(iv) 1994 shall be $44.00, and

"(v) 1995 shall be $46.50.".

SEC. 12302. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 1395l) is amended by inserting after "$75" the following: "for calendar years before 1991, $100 for 1991, and $125 for years after 1991".

Subtitle E—User Fees

SEC. 12401. 4-YEAR EXTENSION OF CUSTOMS USER FEES.

Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1991" and inserting "1995".

SEC. 12402. 5-YEAR EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 (relating to fees for requests for ruling, determination, and similar

letters) is amended by adding at the end thereof the following new sentence: "Subsection (a) shall also apply with respect to requests made after September 30, 1990, and before October 1, 1995".

SEC. 12403. INCREASE IN PBGC PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM.—

(1) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "for plan years beginning after December 31, 1987, an amount equal to the sum of $16" and inserting "for plan years beginning after December 31, 1990, an amount equal to the sum of $19".

(2) CONFORMING AMENDMENT.—Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended by adding at the end thereof the following new clause:

"(iv) with respect to each plan year beginning after December 31, 1987, and before January 1, 1991, an amount equal to $16 for each individual who was a participant in such plan during the plan year, and".

(b) INCREASE IN ADDITIONAL PREMIUM.—Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended—

(1) by striking "$6.00" in clause (ii) and inserting "$9.00", and

(2) by striking "$34" in clause (iv)(I) and inserting "$53".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1990.

SEC. 12404. RECOVERY OF OASDI OVERPAYMENTS BY MEANS OF REDUCTION IN TAX REFUNDS.

(a) ADDITIONAL METHOD OF RECOVERY.—Section 204(a)(1)(A) of the Social Security Act (42 U.S.C. 404(a)(1)(A)) is amended by inserting after "payments to such overpaid person," the following: "or shall obtain recovery by means of reduction in tax refunds based on notice to the Secretary of the Treasury as permitted under section 3720A of title 31, United States Code,".

(b) RECOVERY BY MEANS OF REDUCTION IN TAX REFUNDS.—Section 3720A of title 31, United States Code (relating to collection of debts owed to Federal agencies) is amended—

(1) in subsection (a), by striking "OASDI overpayment and";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting the following new subsection after subsection (e):

"(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

"(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Secretary of Health and Human Services is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

"(B) In any case in which an individual files for a waiver under section 204(b) within the 60-day period referred to in subsection (b)(2), the Secretary of Health and Human Services shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under section 204(b).

"(3) In lieu of payment, pursuant to subsection (c), to the Secretary of Health and Human Services of the amount of any reduction under this subsection based on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Secretary of Health and Human Services.".

(c) INTERNAL REVENUE CODE PROVISIONS.—

(1) IN GENERAL.—Subsection (d) of section 6402 of the Internal Revenue Code of 1986 (relating to collection of debts owed to Federal agencies) is amended—

(A) in paragraph (1), by striking "any OASDI overpayment and"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) TREATMENT OF OASDI OVERPAYMENTS.—

"(A) REQUIREMENTS.—Paragraph (1) shall apply with respect to an OASDI overpayment only if the requirements of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

"(B) NOTICE; PROTECTION OF OTHER PERSONS FILING JOINT RETURN.—

"(i) NOTICE.—In the case of a debt consisting of an OASDI overpayment, if the Secretary determines upon receipt of the notice referred to in paragraph (1) that the refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

"(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

"(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

"(ii) ADJUSTMENTS BASED ON PROTECTIONS GIVEN TO OTHER TAXPAYERS ON JOINT RETURN.—If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reductions in refunds under this subsection and are payable to a trust fund referred to in subparagraph (C).

"(C) DEPOSIT OF AMOUNT OF REDUCTION INTO APPROPRIATE TRUST FUND.—In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Secretary of Health and Human Services, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Secretary of Health and Human Services.

"(D) OASDI OVERPAYMENT.—For purposes of this paragraph, the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.".

(2) PRESERVATION OF REMEDIES.—Subsection (e) of section 6402 of such Code (relating to review of reductions) is amended in the last sentence by inserting before the period the following: "or any such action against the Secretary of Health and Human Services which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act".

(d) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect January 1, 1991, and

(2) shall not apply to refunds to which the amendments made by section 2653 of the Deficit Reduction Act of 1984 (98 Stat. 1153) do not apply.

Subtitle F—Government-Sponsored Enterprises

SEC. 12501. FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES AND GOVERNMENT CORPORATIONS.

(a) IN GENERAL.—Chapter 31 of title 31, United States Code (relating to the public debt), is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES AND GOVERNMENT CORPORATIONS

"§ 3141. Annual study of relationship between public debt and activities of Government-sponsored enterprises

"(a) ANNUAL STUDY.—

"(1) GENERAL REQUIREMENT.—In order to better manage the bonded indebtedness of the United States, the Secretary shall annually conduct a study to assess the financial safety and soundness of the activities of all Government-sponsored enterprises and the impact of their operations on Federal borrowing. Each such study shall include an analysis of—

"(A) the financial safety and soundness of the activities of each Government-sponsored enterprise; and

"(B) the risk of financial exposure to the Federal Government posed by each Government-sponsored enterprise.

"(2) ASSESSMENT OF RISK.—For purposes of paragraph (1)(B), the Secretary shall (to the extent practicable) quantify the risks associated with each Government-sponsored enterprise. In quantifying such risks, the Secretary shall (to the extent practicable) determine the volume and type of securities outstanding which are issued or guaranteed by each Government-sponsored enterprise, the capitalization of each Government-sponsored enterprise, and the degree of risk involved in the operations of each Government-sponsored enterprise due to factors such as credit risk, interest rate risk, management and operations risk, and business risk. The Secretary shall also report on the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of Government-sponsored enterprises and the financial risk associated with such activities.

"(b) ACCESS TO RELEVANT INFORMATION.—

"(1) INFORMATION FROM GSE'S.—Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

"(2) INFORMATION FROM SUPERVISORY AGENCIES.—In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

"(3) CONFIDENTIALITY OF INFORMATION.—

"(A) IN GENERAL.—The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this subsection in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

"(B) EXEMPTION FROM PUBLIC DISCLOSURE REQUIREMENTS.—The Department of the Treasury shall be exempt from section 552 of title 5 with respect to any book, record, or information made available under this subsection and determined by the Secretary to be confidential under subparagraph (A).

Such exemption shall continue to apply to any such book, record, or information provided to a nationally recognized rating organization or another Federal agency pursuant to subsection (c).

"(C) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, if—

"(i) by virtue of official position or employment, such officer or employee has possession of or access to any book, record, or information made available under this subsection and determined by the Secretary to be confidential under subparagraph (A); and

"(ii) such officer or employee discloses the material in any manner other than—

"(I) to an officer or employee of the Department of the Treasury; or

"(II) pursuant to the exceptions set forth in such section 1906.

"(c) OTHER INFORMATION REGARDING GSE'S.—

"(1) IN GENERAL.—The Secretary may provide any information made available to the Secretary under this section to any nationally recognized statistical rating organization and any Federal agency, in order to facilitate the preparation of any study or report by the Secretary under this section.

"(2) CONFIDENTIALITY.—If any information determined by the Secretary to be confidential under subsection (b)(3)(A) is provided to an organization or agency under this subsection, such organization or agency (and its officers and employees) shall be subject to the penalties set forth in subsection (b)(3)(C) for unauthorized disclosure of such information.

"(d) REPORTS TO CONGRESS.—The Secretary shall submit to the Congress, by March 15 of 1991 and each succeeding year, a report setting forth the results of the most recent annual study conducted under this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) GOVERNMENT-SPONSORED ENTERPRISE.—The term 'Government-sponsored enterprise' means—

"(A) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, the Farm Credit Banks, the Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, the Student Loan Marketing Association, the College Construction Loan Insurance Association, and any of their affiliated or member institutions; and

"(B) any other Government-sponsored enterprise, as designated by the Secretary.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury (or the delegate of the Secretary).

"§ 3142. Limitation on obligations of certain newly established Federal entities

"(a) IN GENERAL.—Notwithstanding any other provision of law, on or after October 10, 1990, any specified Federal entity—

"(1) may not borrow any amount from the Treasury (including the Federal Financing Bank), except in amounts specifically authorized in law; and

"(2) except as permitted in paragraph (1), may not—

"(A) issue any obligation or otherwise borrow any amount;

"(B) guarantee any obligation; or

"(C) incur any direct or contingent liability to pay any amount with respect to an obligation.

"(b) SPECIFIED FEDERAL ENTITY.—For purposes of this section, the term 'specified Federal entity' means any corporation owned in whole or part by the Federal Government, or any privately owned Government-sponsored entity, which is established pursuant to any law enacted on or after October 10, 1990.

"(c) EXCEPTION.—Subsection (a) shall not apply to any authority approved in advance in appropriation Acts."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 31, United States Code, is amended by adding at the end the following new items:

"SUBCHAPTER III—FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES AND GOVERNMENT CORPORATIONS

"3141. Annual study of relationship between public debt and activities of Government-sponsored enterprises.

"3142. Limitation on obligations of certain newly established Federal entities."

SEC. 12502. CONGRESSIONAL BUDGET OFFICE STUDY.

(a) IN GENERAL.—The Director of the Congressional Budget Office shall prepare a report setting forth—

(1) the perspective of the Director on the types of risks that each Government-sponsored enterprise assumes, ways in which the Congress can improve its understanding of such risks, and the risks to the Federal budget posed by Government-sponsored enterprises,

(2) an evaluation of the adequacy of the current supervision and regulation of Government-sponsored enterprises with respect to risk management, and

(3) proposed alternative models for oversight of Government-sponsored enterprises, with particular emphasis on the costs and benefits of each alternative to the Federal Government and to the beneficiaries of the activities of the Government-sponsored enterprises.

(b) DEADLINE.—The report required by subsection (a) shall be submitted to the Congress not later than March 15, 1991.

(c) DEFINITION.—For purposes of this section, the term "Government-sponsored enterprise" has the meaning given such term by section 3141 of title 31, United States Code.

Subtitle G—Public Debt Limit

SEC. 12601. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar limitation contained in such subsection and inserting "$4,500,000,000,000 ($5,000,000,000,000 after September 30, 1993)".

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

SEC. 13001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Subtitle A—Increase in Earned Income Tax Credit

SEC. 13101. INCREASE IN EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income tax credit) is amended—

(1) by striking "14 percent" in subsection (a) and inserting "16.5 percent", and

(2) by striking "10 percent" in subsection (b)(2) and inserting "12 percent".

(b) CONFORMING AMENDMENT.—Subparagraphs (B)(i) and (C)(i) of section 3507(c)(2) are each amended by striking "14 percent" and inserting "16.5 percent".

(c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after December 31, 1990.

Subtitle B—Excise Taxes

PART I—TAXES RELATED TO HEALTH AND THE ENVIRONMENT

SEC. 13201. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking "$12.50" and inserting "$14".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking "$12.50" and inserting "$14".

(b) WINE.—

(1) TAX INCREASES.—

(A) WINES CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL.—Paragraph (1) of section 5041(b) (relating to rates of tax on wines) is amended by striking "17 cents" and inserting "$1.27".

(B) WINES CONTAINING MORE THAN 14 (BUT NOT MORE THAN 21) PERCENT ALCOHOL.—Paragraph (2) of section 5041(b) is amended by striking "67 cents" and inserting "$1.77".

(C) WINES CONTAINING MORE THAN 21 (BUT NOT MORE THAN 24) PERCENT ALCOHOL.—Paragraph (3) of section 5041(b) is amended by striking "$2.25" and inserting "$3.35".

(D) ARTIFICIALLY CARBONATED WINES.—Paragraph (5) of section 5041(b) is amended by striking "$2.40" and inserting "$3.50".

(2) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—Section 5041 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, in the case of a person who produces not more than 200,000 wine gallons of wine during the calendar year, the per wine gallon rates of the taxes imposed by this section shall be the following amounts on the 1st 100,000 wine gallons of wine (other than wine described in subsection (b)(4)) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States:

"(A) 17 cents in the case of wines described in subsection (b)(1).

"(B) 67 cents in the case of wines described in subsection (b)(2).

"(C) $2.25 in the case of wines described in subsection (b)(3).

"(D) $3.40 in the case of wines described in subsection (b)(4).

"(E) $2.40 in the case of wines described in subsection (b)(5).

"(2) CONTROLLED GROUPS.—Rules similar to rules of section 5051(a)(2)(B) shall apply for purposes of this subsection.

"(3) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this subsection from benefiting any person who produces more than 200,000 wine gallons of wine during a calendar year."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 5041 is amended by striking "shown in subsection (b)" and inserting "applicable under subsection (b) or (c)".

(B) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(e),".

(c) BEER.—

(1) IN GENERAL.—Paragraph (1) of section 5051(a) (relating to imposition and rate of tax on beer) is amended by striking "$9" and inserting "$18".

(2) CHANGES IN REDUCED RATE FOR SMALL BREWERS.—Paragraph (2) of section 5051(a) is amended—

(A) by striking "60,000" each place it appears and inserting "30,000", and

(B) by striking "2,000,000" each place it appears and inserting "60,000".

(3) REGULATIONS.—Paragraph (2) of section 5051(a) is amended by adding at the end thereof the following new subparagraph:

"(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this paragraph from benefiting any person who produces more than 60,000 barrels of beer during a calendar year."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

(e) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—

(A) IN GENERAL.—In the case of any tax-increased article—

(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

(ii) which is held on such date for sale by any person,

there shall be imposed a tax at the applicable rate on each such article.

(B) APPLICABLE RATE.—For purposes of subparagraph (A), the applicable rate is—

(i) $1.50 per proof gallon in the case of distilled spirits,

(ii) $1.10 per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

(iii) $9 per barrel in the case of beer.

In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

(C) TAX-INCREASED ARTICLE.—For purposes of this subsection, the term "tax-increased article" means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS.—In the case of wine held by the producer thereof on January 1, 1991, the tax imposed by paragraph (1) shall not apply to such wine if the rate of tax under section 5041 of such Code on such wine would have been determined under subsection (c) thereof (as added by this section) had the amendments made by subsection (b) applied to all wine removed during 1990. A similar rule shall apply to beer held by the producer thereof. For purposes of this paragraph, an article shall not be treated as held by the producer if title thereto had at any time been transferred to any other person.

(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on tax-increased articles held on January 1, 1991, by any dealer if—

(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to—

(A) $360 to the extent such taxes are attributable to distilled spirits,

(B) $330 to the extent such taxes are attributable to wine, and

(C) $87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(6) CONTROLLED GROUPS.—

(A) CORPORATIONS.—In the case of a controlled group—

(i) the 500 wine gallon amount specified in paragraph (3), and

(ii) the $360, $330, and $87 amounts specified in paragraph (4),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be sub-

stituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(7) OTHER LAWS APPLICABLE.—

(A) IN GENERAL.—All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

(B) COMPARABLE EXCISE TAX.—For purposes of subparagraph (A), the term "comparable excise tax" means—

(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

(ii) the tax imposed by section 5041 of such Code in the case of wine, and

(iii) the tax imposed by section 5051 of such Code in the case of beer.

(8) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

(B) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.

SEC. 13202. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "75 cents per thousand" in paragraph (1) and inserting "$1.125 cents per thousand ($3.75 cents per thousand on cigars removed during 1991 or 1992)", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to—

"(A) 10.625 percent of the wholesale price but not more than $25 per thousand on cigars removed during 1991 or 1992, and

"(B) 12.75 percent of the wholesale price but not more than $30 per thousand on cigars removed after 1992."

(b) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$8 per thousand" in paragraph (1) and inserting "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)", and

(2) by striking "$16.80 per thousand" in paragraph (2) and inserting "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)".

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "1/2 cent" and inserting "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)",

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1 cent" and inserting "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "24 cents" in paragraph (1) and inserting "36 cents (30 cents on snuff removed during 1991 or 1992)", and

(2) by striking "8 cents" in paragraph (2) and inserting "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "45 cents" and inserting "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

(h) FLOOR STOCKS TAXES ON CIGARETTES.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $2 per thousand.

(B) LARGE CIGARETTES.—On cigarettes weighing more than 3 pounds per thousand, $4.20 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) EXCEPTION FOR CERTAIN AMOUNTS OF CIGARETTES.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if—

(i) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6½ inches in length, each 2¾ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Secretary so provides with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and the $60 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

(5) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means January 1, 1991, and January 1, 1993.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 13201(e)(6) shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701.

SEC. 13203. ADDITIONAL CHEMICALS SUBJECT TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) GENERAL RULE.—

(1) The table set forth in section 4682(a)(2) (defining ozone-depleting chemical) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	Tetrachloromethane
Methyl chloroform	1,1,1-trichloroethane
CFC-13	CF_3Cl
CFC-111	C_2FCl_5
CFC-112	$C_2F_2Cl_4$
CFC-211	C_3FCl_7
CFC-212	$C_3F_2Cl_6$
CFC-213	$C_3F_3Cl_5$
CFC-214	$C_3F_4Cl_4$
CFC-215	$C_3F_5Cl_3$
CFC-216	$C_3F_6Cl_2$
CFC-217	C_3F_7Cl."

(2) The table set forth in section 4682(b) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0."

(b) SEPARATE APPLICATION OF EXPORT CREDIT LIMIT FOR NEWLY LISTED CHEMICALS.—Paragraph (3) of section 4682(d) is amended by adding at the end thereof the following new subparagraph:

"(C) SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS.—

"(i) IN GENERAL.—Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

"(ii) APPLICATION TO NEWLY LISTED CHEMICALS.—In applying subparagraph (B) to newly listed chemicals—

"(I) subparagraph (B) shall be applied by substituting '1989' for '1986' each place it appears, and

"(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

"(iii) NEWLY LISTED CHEMICAL.—For purposes of this subparagraph, the term 'newly listed chemical' means any substance which appears in the table contained in subsection (a)(2) below Halon-2402."

(c) SEPARATE BASE TAX AMOUNT FOR NEWLY LISTED CHEMICALS.—Subparagraphs (B) and (C) of section 4681(b)(1) are amended to read as follows:

"(B) BASE TAX AMOUNT.—

"(i) INITIALLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C)) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1990 or 1991	$1.37
1992	1.67
1993 or 1994	2.65.

"(ii) NEWLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical which is a newly listed chemical (as so defined) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1991 or 1992	$1.37
1993	1.67
1994	3.00
1995	3.10.

"(C) BASE TAX AMOUNT FOR LATER YEARS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year."

(d) OTHER AMENDMENTS.—

(1) The last sentence of section 4682(c)(2) is amended by inserting "(other than methyl chloroform)" after "ozone-depleting chemical".

(2) Paragraph (3) of section 4682(h) is amended by striking "April 1" and inserting "June 30".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses after December 31, 1990.

(f) DEPOSITS FOR 1ST QUARTER OF 1991.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by subsection (a)(1) shall be required to be made before April 1, 1991.

PART II—USER-RELATED TAXES

SEC. 14211. INCREASE AND EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) INCREASE IN TAX ON GASOLINE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to rate of tax) is amended—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate."

(2) RATES OF TAX.—Subparagraph (B) of section 4081(a)(2) is amended—

(A) by striking "9 cents a gallon, and" and inserting "14.5 cents a gallon,",

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate is 5.5 cents a gallon."

(3) TERMINATIONS.—

(A) Paragraph (1) of section 4081(d) is amended by striking "shall not apply" and inserting "shall be 1 cent per gallon".

(B) Subsection (d) of section 4081 is amended by adding at the end thereof the following new paragraph:

"(3) DEFICIT REDUCTION RATE—On and after October 1, 1995, the deficit reduction rate under subsection (a)(2) shall be 1 cent per gallon."

(4) 17-CENT LIMIT ON TAX ON GASOLINE USED IN NONCOMMERCIAL AVIATION.—

(A) RATES OF TAX AFTER NOVEMBER 30, 1990, AND BEFORE JULY 1, 1991.—

(i) Paragraph (3) of section 4041(c) is amended by striking "12 cents" and inserting "17 cents (15 cents in the case of sales and uses during December 1990)".

(ii) The amendment made by clause (i) shall take effect on December 1, 1990.

(B) REPEAL OF TAX AFTER JUNE 30, 1991.—

(i) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(ii) Paragraph (3) of section 4041(c), as redesignated by clause (i) is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(iii) Section 6427 is amended by striking subsections (m) and (o) and by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(iv) Subsection (o) of section 6427 (as redesignated by clause (iii)) is amended to read as follows:

"(o) GASOLINE USED IN NONCOMMERCIAL AVIATION.—Except as provided in subsection (k), if gasoline is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(2)), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 17.1 cents multiplied by the number of gallons of gasoline so used."

(v) Paragraph (1) of section 6427(i) is amended by striking "or (q)" and inserting "or (o)".

(vi) Clause (i) of section 6427(i)(2)(A) is amended by striking "and (q)" and inserting "and (o)".

(vii) Paragraph (2) of section 6421(f) is amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(viii) The amendments made by this subparagraph shall take effect on July 1, 1991.

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4081(c) is amended—

(i) by striking "applied by" and all that follows through "in the case" and inserting "applied by substituting rates which are 10/9th of the otherwise applicable rates in the case", and

(ii) by adding at the end thereof the following: "For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 8.5 cents a gallon."

(B) Paragraph (2) of section 4081(c) is amended by striking "at a rate equivalent to 3 cents" and inserting "at a Highway Trust Fund financing rate equivalent to 8.5 cents".

(C) Subparagraph (B) of section 9503(b)(4) is amended by striking "4081" and inserting "4041, 4081.".

(D) Subparagraph (A) of section 9503(c)(2) is amended by adding at the end thereof the following new sentence:

"The amounts payable from the Highway Trust Fund under this subparagraph shall be determined by taking into account only the Highway Trust Fund financing rate applicable to any fuel."

(6) RATES OF TAX FOR GASOLINE AFTER NOVEMBER 30, 1990, AND BEFORE JULY 1, 1991.—Section 4081 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR GASOLINE AFTER NOVEMBER 30, 1990, AND BEFORE JULY 1, 1991.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of gasoline on which tax is imposed during December 1990—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '11.5 cents' for '14.5 cents', and

"(ii) subsection (c) shall be applied by substituting '5.5 cents' for '8.5 cents' each place it appears.

"(B) In the case of gasoline on which tax is imposed after December 31, 1990, and before July 1, 1991—

"(i) subsection (a)(2)(B)(i) shall be applied by substituting '12.5 cents' for '14.5 cents', and

"(ii) subsection (c) shall be applied by substituting '6.5 cents' for '8.5 cents' each place it appears.

"(2) DEFICIT REDUCTION RATE.—

"(A) In the case of gasoline on which tax is imposed during December 1990, subsection (a)(2)(B)(iii) shall be applied by substituting '2.5 cents' for '5.5 cents'.

"(B) In the case of gasoline on which tax is imposed after December 31, 1990, and before July 1, 1991, subsection (a)(2)(B)(iii) shall be applied by substituting '3.5 cents' for '5.5 cents'."

(7) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) after November 30, 1990.

(b) INCREASE IN OTHER TAXES.—

(1) DEFICIT REDUCTION RATE.—

(A) Clause (i) of section 4091(b)(1)(A) is amended by inserting "and the diesel fuel deficit reduction rate" after "financing rate".

(B) Subsection (b) of section 4091 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) DIESEL FUEL DEFICIT REDUCTION RATE.—For purposes of paragraph (1), the diesel fuel deficit reduction rate is 5.5 cents per gallon."

(C) Paragraph (6) of section 4091(b), as redesignated by subparagraph (A), is amended—

(i) by striking "shall not apply" in subparagraph (A) and inserting "shall be 1 cent per gallon", and

(ii) by adding at the end thereof the following new subparagraph:

"(D) The diesel fuel deficit reduction rate shall be 1 cent per gallon on and after October 1, 1995."

(2) INCREASE IN HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4091(b) is amended by striking "15 cents" and inserting "20.5 cents".

(3) INCREASE IN TAX ON SPECIAL MOTOR FUELS.—Paragraph (2) of section 4041(a) is amended by striking "of 9 cents a gallon" and by inserting at the end thereof the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the deficit reduction rate in effect under section 4081 at the time of such sale or use."

(4) 11-CENT TAX TO APPLY TO FUEL USED IN TRAINS.—

(A) Paragraph (2) of section 4093(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) 11-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel sold for use in a diesel-

powered train, paragraph (1) shall apply only to the excess of the tax imposed by section 4091 over 11 cents per gallon."

(B) Subsection (l) of section 6427 is amended by adding at the end thereof the following new paragraph:

"(4) 11-CENT TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) shall apply only to the excess of the tax imposed by section 4091 over 11 cents per gallon."

(C) Paragraph (4) of section 9503(b) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(C) there shall not be taken into account the taxes imposed by section 4091 on any diesel fuel used in a diesel-powered train."

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4091(c) is amended—

(i) by striking "9 cents" and inserting "14.5 cents" and by striking "10 cents" and inserting "16.11 cents", and

(ii) by striking "1/9 cent per gallon" and inserting "and the diesel fuel deficit reduction rate shall be 10/9th of the otherwise applicable such rates".

(B) Paragraph (2) of section 4091(c) is amended by striking "9 cents" and inserting "14.5 cents".

(C)(i) Paragraph (1) of section 4041(a) is amended by striking "of 15 cents a gallon" and by inserting before the last sentence the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate in effect under section 4091 at the time of such sale or use."

(ii) Subsection (a) of section 4041 is amended by striking paragraph (3).

(D) Clause (i) of section 4041(b)(2)(A) is amended by to read as follows:

"(i) the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 6 cents per gallon less than the otherwise applicable rate, and".

(E) Paragraph (1) of section 4041(k) is amended—

(i) by striking subparagraphs (A) and (B) and inserting the following new subparagraph:

"(A) the Highway Trust Fund financing rates under paragraphs (1) and (2) of subsection (a) shall be 6 cents per gallon less than the otherwise applicable rates, and", and

(ii) by redesignating subparagraph (C) as subparagraph (B).

(F) Subparagraph (A) of section 4041(m)(1) is amended to read as follows:

"(A) the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 4.5 cents per gallon less than the otherwise applicable rate, and",

(G) Subsection (d) of section 9502 is amended by adding at the end thereof the following new paragraph:

"(4) TRANSFERS FOR REFUNDS AND CREDITS NOT TO EXCEED TRUST FUND REVENUES ATTRIBUTABLE TO FUEL USED.—The amounts payable from the Airport and Airway Trust Fund under paragraph (2) or (3) shall not exceed the amounts required to be appropriated to such Trust Fund with respect to fuel so used."

(H) Subparagraph (D) of section 9503(c)(4) is amended by striking "(to the extent attributable to the Highway Trust Fund financing rate)" and by inserting before the period ", but only to the extent such taxes are attributable to the Highway Trust Fund financing rates under such sections".

(6) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JULY 1, 1991.—Section 4091 is amended by adding at the end thereof the following new subsection:

"(e) RATES OF TAX FOR DIESEL FUEL AFTER NOVEMBER 30, 1990, AND BEFORE JULY 1, 1991.—

"(1) HIGHWAY TRUST FUND FINANCING RATES.—

"(A) In the case of diesel fuel on which tax is imposed during December 1990—

"(i) subsection (b)(2) shall be applied by substituting '17.5 cents' for '20.5 cents',

"(ii) subsection (c) shall be applied by substituting—

"(I) '11.5 cents' for '14.5 cents' each place it appears, and

"(II) '12.78 cents' for '16.11 cents', and

"(iii) sections 4093(c)(2)(B) and 6427(l)(4) shall be applied by substituting '5 cents' for '11 cents'.

"(B) In the case of diesel fuel on which tax is imposed after December 31, 1990, and before July 1, 1991—

"(i) subsection (b)(2) shall be applied by substituting '18.5 cents' for '20.5 cents',

"(ii) subsection (c) shall be applied by substituting—

"(I) '12.5 cents' for '14.5 cents' each place it appears, and

"(II) '13.89 cents' for '16.11 cents', and

"(iii) sections 4093(c)(2)(B) and 6427(l)(4) shall be applied by substituting '7 cents' for '11 cents'.

"(2) DIESEL FUEL DEFICIT REDUCTION RATE.—

"(A) In the case of diesel fuel on which tax is imposed during December 1990, subsection (b)(4) shall be applied by substituting '2.5 cents' for '5.5 cents'.

"(B) In the case of diesel fuel on which tax is imposed after December 31, 1990, and before July 1, 1991, subsection (b)(4) shall be applied by substituting '3.5 cents' for '5.5 cents'."

(8) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

(c) EXTENSION OF TAXES.—The following provisions are each amended by striking "1993" each place it appears and inserting "1995":

(1) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(2) Section 4071(d) (relating to tax on tires and tread rubber).

(3) Section 4081(d)(1) (relating to gasoline tax).

(4) Section 4091(b)(6)(A) (relating to diesel fuel tax), as redesignated by section 13211(b).

(5) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(d) EXTENSION OF EXEMPTIONS.—

(1) Paragraph (3) of section 4041(f) (relating to exemptions for farm use) is hereby repealed.

(2) The last sentence of section 4041(g) (relating to other exemptions) is hereby repealed.

(3) Subsection (a) of section 4221 (relating to certain tax-free sales) is amended by striking "1993" and inserting "1995".

(4) Subsection (g) of section 4483 (relating to termination of exemptions for highway use tax) is amended by striking "1993" and inserting "1995".

(5) Section 6420 (relating to gasoline used on farms) is amended by striking subsection (h) and by redesignating subsection (i) as subsection (h).

(6)(A) Section 6421 (relating to gasoline used for certain nonhighway purposes, etc.) is amended by striking subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsections (a) and (b) of section 6421 are each amended by striking "subsection (j)" and by inserting "subsection (i)".

(7) Paragraph (5) of section 6427(g) (relating to advance repayment of increased diesel fuel tax) is amended by striking "1993" and inserting "1995".

(e) EXTENSION OF REDUCED RATES OF TAX ON FUELS CONTAINING ALCOHOL.—The following provisions are each amended by striking "1993" each place it appears and inserting "1995":

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel).

(2) Section 4041(k)(3) (relating to fuels containing alcohol).

(3) Section 4081(c)(4) (relating to gasoline mixed with alcohol).

(4) Subsections (c) and (d) of section 4091 (relating to diesel fuel and aviation fuel mixed with alcohol and aviation fuel used to produce certain alcohol fuels).

(f) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles) is amended by striking "1993" and inserting "1995".

(g) EXTENSION OF DEPOSITS INTO TRUST FUND.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2), (3), and (4) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

(A) by striking "1993" and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(h) INCREASE IN TRANSFERS TO MASS TRANSIT ACCOUNT.—

(1) IN GENERAL.—Paragraph (2) of section 9503(e) is amended by striking "1 cent" and inserting "2.1 cents".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to amounts attributable to taxes imposed on or after December 1, 1990.

(3) TAXES IMPOSED BEFORE JULY 1, 1991.—

(A) In the case of taxes imposed during December 1990, paragraph (2) of section 9503(e) of the Internal Revenue Code of 1986 shall be applied by substituting "1.5 cents" for "2.1 cents".

(B) In the case of taxes imposed after December 31, 1990, and before July 1, 1991, paragraph (2) of section 9503(e) of such Code shall be applied by substituting "1.55 cents" for "2.1 cents".

(i) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—In the case of gasoline and diesel fuel on which tax was imposed under section 4081 or 4091 of such Code before any tax-increase date and which is held on such date by any person, there is hereby imposed a floor stocks tax on such gasoline and diesel fuel.

(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) shall be—

(A) 5 cents per gallon in the case of the tax imposed on December 1, 1990,

(B) 2 cents per gallon in the case of the tax imposed on January 1, 1991, and

(C) 4 cents per gallon in the case of the tax imposed on July 1, 1991.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline or diesel fuel on any tax-increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before—

(i) May 31, 1991, in the case of the tax imposed on December 1, 1990,

(ii) June 30, 1991, in the case of the tax imposed on January 1, 1991, and

(iii) September 15, 1991, in the case of the tax imposed on July 1, 1991.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means December 1, 1990, January 1, 1991, and July 1, 1991.

(B) HELD BY A PERSON.—Gasoline and diesel fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(D) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4092 of such Code.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline or diesel fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

(6) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(7) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

(i) on gasoline held on any tax-increase date by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(ii) on diesel fuel held on any tax-increase date by any person if the aggregate amount of diesel fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5) or (6).

(C) CONTROLLED GROUPS.—For purposes of this paragraph, rules similar to the rules of paragraph (6) of section 13201(e) of this Act shall apply.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 in the case of diesel fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.

(8) TRANSFER OF PORTION OF FLOOR STOCKS REVENUE TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund, the tax imposed by paragraph (1) shall be treated as imposed at a Highway Trust Fund financing rate to the extent of—

(A) 2.5 cents per gallon in the case of the tax imposed on December 1, 1990, and

(B) 2 cents per gallon in the case of the tax imposed on July 1, 1991.

SEC. 13212. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION.—

(1) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 are each amended by striking "8 percent" and inserting "10 percent".

(2) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 is amended by striking "5 percent" and inserting "6.25 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after November 30, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL.—

(1) IN GENERAL.—Paragraph (3) of section 4091(b) is amended by striking "14 cents" and inserting "17.5 cents".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(c) is amended by striking "14 cents" and inserting "17.5 cents".

(B)(i) Subparagraph (B) of section 4041(k)(1), as redesignated by section 13211 of this Act, is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 3.5 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 3.89 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be 1/9 cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 3.5 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel."

(ii) The heading for subsection (d) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF".

(3) Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4091(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 1995."

(4) EFFECTIVE DATES.—The amendments made by this subsection shall take effect on December 1, 1990.

(5) FLOOR STOCKS TAXES.—

(A) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before December 1, 1990, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such fuel.

(B) RATE OF TAX.—The rate of the tax imposed by subparagraph (A) shall be 3.5 cents per gallon.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding fuel on December 1, 1990, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT.—The tax imposed by this paragraph shall be paid on or before May 31, 1991.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) HELD BY A PERSON.—Fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092(a) of such Code.

(iii) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES.—The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code).

(F) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—Subsection (b) of section 9502 is amended by adding at the end thereof the following new sentence:

"In the case of taxes imposed before January 1, 1993, paragraphs (1), (2), and (3) shall be applied without regard to any increase in tax enacted by Revenue Reconciliation Act of 1990."

(d) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 1, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(6) (as redesignated by section 13211(b)) is amended by striking "January 1, 1991" and inserting "January 1, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1996".

(e) REPEAL OF REDUCTION IN RATES.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

SEC. 13213. INCREASE IN HARBOR MAINTENANCE TAX.

(a) IN GENERAL.—Subsection (b) of section 4461 is amended by striking "0.04 percent" and inserting "0.125 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1991.

SEC. 13214. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

(a) IN GENERAL.—Paragraph (2) of section 4081(d) is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 13215. INCREASE IN INLAND WATERWAY FUEL USE TAX.

(a) IN GENERAL.—Paragraph (1) of section 4042(b) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(C) the deficit reduction rate."

(b) DEFICIT REDUCTION RATE.—Paragraph (2) of section 4042(b) is amended by adding at the end thereof the following new subparagraph:

"(C) DEFICIT REDUCTION RATE.—The deficit reduction rate is 2 cents per gallon."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

SEC. 13216. FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES.

Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part, part I, or part IV shall be subject to floor stocks taxes imposed by such parts if—

(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

PART III—TAXES ON LUXURY ITEMS

SEC. 13221. TAXES ON LUXURY ITEMS.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"SUBCHAPTER A—CERTAIN LUXURY ITEMS

"Part I. Imposition of taxes.

"Part II. Rules of general applicability.

"PART I. IMPOSITION OF TAXES

"Subpart A. Passenger vehicles, boats, and aircraft.

"Subpart B. Jewelry and furs.

"Subpart A—Passenger Vehicles, Boats, and Aircraft

"Sec. 4001. Passenger vehicles.

"Sec. 4002. Boats.

"Sec. 4003. Aircraft.

"Sec. 4004. Rules applicable to subpart A.

"SEC. 4001. PASSENGER VEHICLES.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"SEC. 4002. BOATS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any boat a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any boat for use by the purchaser exclusively in the active conduct of—

"(1) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(2) any other trade or business unless the boat is to be used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation.

"SEC. 4003. AIRCRAFT.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any aircraft a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) AIRCRAFT.—For purposes of this section, the term 'aircraft' means any aircraft—

"(1) which is propelled by a motor, and

"(2) which is capable of carrying 1 or more individuals.

"(c) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any aircraft for use by the purchaser exclusively—

"(1) in the aerial application of fertilizers or other substances,

"(2) in the case of a helicopter, in a use described in paragraph (1) or (2) of section 4261(e),

"(3) in a trade or business of providing flight training, or

"(4) in a trade or business of transporting persons or property for compensation or hire.

"SEC. 4004. RULES APPLICABLE TO SUBPART A.

"(a) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed under this subpart on the sale of any article—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(b) SEPARATE PURCHASE OF ARTICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any article taxable under this subpart (determined without regard to price) installs (or causes to be installed) any part or accessory on such article, and

"(B) such installation is not later than the date 6 months after the date the article was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle, boat, or aircraft was sold, over

"(B) $100,000 ($30,000 in the case of a passenger vehicle).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory, or

"(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the taxable article does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(c) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF ARTICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any article by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such article is resold by the purchaser or such purchaser makes a substantial non-exempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of an article if the 1st retail sale of such article is not taxable under this subchapter by reason of such use.

"Subpart B—Jewelry and Furs

"Sec. 4006. Jewelry.

"Sec. 4007. Furs.

"SEC. 4006. JEWELRY.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any jewelry a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000.

"(b) JEWELRY.—For purposes of subsection (a), the term 'jewelry' means all articles commonly or commercially known as jewelry, whether real or imitation, including watches.

"(c) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces jewelry from material furnished directly or indirectly by a customer, and

"(2) the jewelry so manufactured is for the use of, and not for resale by, such customer,

the delivery of such jewelry to such customer shall be treated as the 1st retail sale of such jewelry for a price equal to its fair market value at the time of such delivery.

"SEC. 4007. FURS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of the following articles a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000:

"(1) Articles made of fur on the hide or pelt.

"(2) Articles of which such fur is a major component.

"(b) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces an article of the kind described in subsection (a) from fur on the hide or pelt furnished, directly or indirectly, by a customer, and

"(2) the article is for the use of, and not for resale by, such customer,

the delivery of such article to such customer shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such delivery.

"PART II—RULES OF GENERAL APPLICABILITY

"Sec. 4011. Definitions and special rules.

"SEC. 4011. DEFINITIONS AND SPECIAL RULES.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses an article taxable under this subchapter (including any use after importation) before the 1st retail sale of such article, then such person shall be liable for tax under this subchapter in the same manner as if such article were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under this subchapter to be manufactured or produced by him.

"(3) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by any person shall be considered a sale of such article at retail.

"(2) SPECIAL RULES FOR CERTAIN LEASES OF PASSENGER VEHICLES, BOATS, AND AIRCRAFT.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle, boat, or aircraft to a person engaged in a leasing or rental trade or business of the article involved for leasing by such person in a qualified lease shall not be treated as the 1st retail sale of such article.

"(B) QUALIFIED LEASE.—For purposes of subparagraph (A), the term 'qualified lease' means—

"(i) any lease in the case of a boat or an aircraft, and

"(ii) any long-term lease (as defined in section 4052) in the case of any passenger vehicle.

"(C) SPECIAL RULES.—In the case of a qualified lease of an article which is treated as the 1st retail sale of such article—

"(i) DETERMINATION OF PRICE.—The tax under this chapter shall be computed on the lowest price for which the article is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a qualified lease if the lessee's use of the article under such lease is an exempt use (as defined in section 4004(c)) of such article,

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee,

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

Subparagraph (B)(iii) shall not apply for purposes of the taxes imposed by sections 4006 and 4007.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"(e) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any article taxable under this subchapter shall be treated as part of the article.

"(f) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2), and of section 4216(d), shall apply for purposes of this subchapter."

(b) EXEMPTION FOR EXPORTS.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "section 4051" and inserting "subchapter A or C of chapter 31".

(2) Subsection (a) of section 4221 is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply."

(c) EXEMPTION FOR SALES TO THE UNITED STATES.—Section 4293 is amended by inserting "subchapter A of chapter 31," before "section 4041".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "section 4053(a)(6)" and inserting "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)".

(2) Paragraph (1) of section 4221(d) is amended by striking "the tax imposed by section 4051" and inserting "taxes imposed by subchapter A or C of chapter 31".

(3) Subsection (d) of section 4222 is amended by striking "sections 4053(a)(6)" and inserting "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)".

(e) CLERICAL AMENDMENT.—The table of subchapters for chapter 31 is amended to read as follows:

"Subchapter A. Certain luxury items.

"Subchapter B. Special fuels.

"Subchapter C. Heavy trucks and trailers."

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

PART IV—TAX ON REFINED PETROLEUM PRODUCTS

SEC. 13231. TAX ON REFINED PETROLEUM PRODUCTS.

(a) IN GENERAL.—Chapter 36 (relating to other excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"Subchapter A—Refined Petroleum Products

"Sec. 4441. Imposition of tax.

"Sec. 4442. Exceptions.

"Sec. 4443. Definitions and special rules.

"SEC. 4441. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax of 84 cents per barrel on any taxable refined petroleum product removed (or, if earlier, sold) by the refiner or importer thereof or the terminal operator.

"(b) USE TAX,—

"(1) GENERAL RULE.—If—

"(A) any taxable refined petroleum product is used as a fuel other than in a qualified use (as defined in section 4442(b)), and

"(B) before such use, no tax was imposed by subsection (a) on such petroleum product,

then there is hereby imposed a tax of 84 cents per barrel on the use of such petroleum product.

"(2) OTHERWISE TAXABLE EVENT OCCURRING BEFORE EFFECTIVE DATE.—The tax imposed by this subsection shall not apply to any use if no tax would be imposed by this subsection on such use were this subchapter in effect for all periods before January 1, 1991.

"(c) BULK TRANSFER TO TERMINAL OPERATOR.—For purposes of subsection (a), the bulk transfer of any taxable refined petroleum product by a refiner or importer shall not be considered a removal or sale of such product by such refiner or importer.

"SEC. 4442. EXCEPTIONS.

"(a) EXPORTS.—

"(1) TAX-FREE SALES.—No tax shall be imposed by section 4441 on any taxable refined petroleum product—

"(A) which is exported from the United States by the person otherwise liable for such tax, or

"(B) which is to be sold for export from the United States by the purchaser or by any subsequent purchaser.

"(2) CREDIT OR REFUND WHERE PRIOR TAX IMPOSED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if any tax was imposed by section 4441 with respect to any taxable refined petroleum product and such product is exported by any person, credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION OF ALLOWANCE.—No credit or refund shall be allowed or made under subparagraph (A) unless the person who paid the tax establishes that—

"(i) he has repaid or agreed to repay the amount of the tax to the person who exported the taxable refined petroleum product, or

"(ii) he has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

"(C) REFUNDS DIRECTLY TO EXPORTER.—Rules similar to the rules of section 4662(e)(3) shall apply to the tax imposed by section 4441.

"(b) FEEDSTOCK AND MANUFACTURING USES.—

"(1) TAX-FREE SALES.—No tax shall be imposed by section 4441 with respect to any taxable refined petroleum product—

"(A) which is to be used by the person otherwise liable for such tax in a qualified use, or

"(B) which is to be sold for a qualified use by the purchaser or by any subsequent purchaser.

"(2) CREDIT OR REFUND WHERE PRIOR TAX IMPOSED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if any tax was imposed by section 4441 with respect to any taxable refined petroleum product which is used by any person in a qualified use, credit or refund (without interest) of such tax shall be allowed or made to the person who paid such tax.

"(B) CONDITION OF ALLOWANCE.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(1) shall apply for purposes of subparagraph (A).

"(3) QUALIFIED USE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified use' means—

"(i) any use as a feedstock in the manufacture or production of any item other than a fuel, or

"(ii) any use as a fuel directly to operate any equipment (other than a motor vehicle or motorboat) used as an integral part of the manufacture or production of any tangible personal property.

"(B) TREATMENT OF FARM USE.—Such term includes fuel used on a farm for farming purposes (within the meaning of section 6420(c)) other than fuel used in a highway vehicle on the highways.

"(C) FUEL USED IN CONSTRUCTION EXCLUDED.—Such term shall not include any fuel used in construction.

"(c) REGISTRATION AND OTHER REQUIREMENTS.—

"(1) IN GENERAL.—To the extent provided by the Secretary, subsections (a) and (b) shall not apply to any sale unless—

"(A) both the seller and the purchaser are registered with the Secretary under such terms as the Secretary may prescribe, and

"(B) the purchaser's name and address, and the purchaser's registration number for purposes of this subchapter, are provided to the seller.

"(2) INFORMATION REPORTING.—The Secretary may require—

"(A) information reporting by each remitter of tax imposed by this subchapter, and

"(B) information reporting by, and registration of, such other persons as the Secretary deems necessary to carry out this subchapter.

"(3) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (b) and (c) of section 4221 and section 4223(a) shall apply for purposes of this subchapter.

"SEC. 4443. DEFINITIONS AND SPECIAL RULES.

"(a) TAXABLE REFINED PETROLEUM PRODUCT.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'taxable refined petroleum product' means any petroleum product other than—

"(A) crude oil,

"(B) waxes,

"(C) lubricating oils, and

"(D) asphalt.

"(2) EXCEPTION FOR HOME HEATING OIL.—The term 'taxable refined petroleum product' does not include any fuel which the Secretary determines is destined for use as home heating oil.

"(3) EXCEPTION FOR CERTAIN FEEDSTOCKS.—The term 'taxable refined petroleum product' shall not include any product if there is in effect a determination by the Secretary that—

"(A) 90 percent of the use of the product in the United States is expected to be a use described in section 4442(b)(3)(A)(i), and

"(B) taking into account the protection of revenues to the United States from this subchapter and the ease of administration for both taxpayers and the Secretary, the tax imposed by this section should not apply.

Any such determination or revocation thereof shall be published in the Federal Register.

"(b) COORDINATION WITH OTHER FUELS TAXES.—For purposes of this subchapter—

"(1) EXCEPTION FOR LIQUIDS OTHERWISE TAXED.—The term 'taxable refined petroleum product' does not include any liquid on which tax is imposed under section 4041, 4042, 4081, or 4091 (or would be so imposed but for its use in a qualified use).

"(2) LIMITATION ON EXEMPTIONS.—Notwithstanding any other provision of this title, no exemption or credit shall be allowed (or refund made) by reason of any use of any liquid subject to tax under section 4041, 4042, 4081, or 4092 to the extent of 2 cents per gallon unless such use is a qualified use.

"(c) BARREL.—For purposes of this subchapter—

"(1) DEFINITION.—The term 'barrel' means 42 United States gallons measured at 60 degrees Fahrenheit.

"(2) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4441 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"(d) DISPOSITION OF REVENUES TO PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

"(e) TAX IMPOSED ONLY ONCE.—No tax shall be imposed by section 4441 with respect to any taxable refined petroleum product if the person who would (but for this subsection) be liable for such tax establishes that a prior tax has been imposed by such section (and not credited or refunded) with respect to such product."

(b) DEPOSITS FOR 1ST QUARTER OF 1991.—No deposit of any tax imposed by subchapter A of chapter 36 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1991.

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 9505(c)(3) is amended by striking "subchapter A" and inserting "subchapter B".

(2) The table of subchapters for chapter 36 is amended by striking the items relating to subchapters A and B and inserting the following:

"Subchapter A. Refined petroleum products.

"Subchapter B. Harbor maintenance tax.

"Subchapter C. Transportation by water."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

(e) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—There is hereby imposed a tax on any taxable refined petroleum product which on January 1, 1991, is held by any person.

(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) on each barrel of a taxable refined petroleum product shall be the amount which would be imposed under section 4441 of the Internal Revenue Code of 1986 (as added by this section) on such product if such product were removed and sold by the refiner or importer on January 1, 1991.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any taxable refined petroleum product on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(4) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 36 of such Code shall have the same meanings as when used in such subchapter.

(B) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(5) EXCEPTION FOR FUELS HELD FOR SALE FOR EXPORT OR QUALIFIED USE.—The tax imposed by paragraph (1) shall not apply to any refined petroleum product held for sale for export or for any qualified use.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF PRODUCT.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on any taxable refined petroleum product held on January 1, 1991, by any person if—

(i) the aggregate amount of such product held by such person on such date does not exceed 2,000 gallons, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT PRODUCTS.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph, rules similar to the rules of paragraph (6) of section 20201(e) of this Act shall apply.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4441 of such Code (as added by this section) shall, insofar as applicable and not inconsistent with the provisions of this section, apply in respect of the tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section 4441.

Subtitle C—Other Revenue Increases

PART I—INSURANCE PROVISIONS

Subpart A—Provisions Related to Policy Acquisition Costs

SEC. 13301. CAPITALIZATION OF POLICY ACQUISITION EXPENSES.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 848. CAPITALIZATION OF CERTAIN POLICY ACQUISITION EXPENSES.

"(a) GENERAL RULE.—In the case of an insurance company—

"(1) specified policy acquisition expenses for any taxable year shall be capitalized, and

"(2) such expenses shall be allowed as a deduction ratably over the 120-month period beginning with the first month in the second half of such taxable year.

"(b) SPECIFIED POLICY ACQUISITION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified policy acquisition expenses' means, with respect to any taxable year, so much of the general deductions for such taxable year as does not exceed the sum of—

"(A) 1.4 percent of the net premiums for such taxable year on specified insurance contracts which are annuity contracts,

"(B) 1.65 percent of the net premiums for such taxable year on specified insurance contracts which are group life insurance contracts, and

"(C) 6.25 percent of the net premiums for such taxable year on specified insurance contracts not described in subparagraph (A) or (B).

"(2) GENERAL DEDUCTIONS.—The term 'general deductions' means the deductions provided in part VI of subchapter B (sec. 161 and following, relating to itemized deductions) and in part I of subchapter D (sec. 401 and following, relating to pension, profit sharing, stock bonus plans, etc.).

"(c) NET PREMIUMS.—For purposes of this section—

"(1) IN GENERAL.—The term 'net premiums' means, with respect to any category of specified insurance contracts set forth in subsection (b)(1), the excess (if any) of—

"(A) the gross amount of premiums and other consideration on such contracts, over

"(B) return premiums on such contracts and premiums and other consideration incurred for reinsurance of such contracts.

The rules of section 803(b) shall apply for purposes of the preceding sentence.

"(2) AMOUNTS DETERMINED ON ACCRUAL BASIS.—In the case of an insurance company subject to tax under part II of this subchapter, all computations entering into determinations of net premiums for any taxable year shall be made in the manner required under section 811(a) for life insurance companies.

"(3) TREATMENT OF CERTAIN POLICYHOLDER DIVIDENDS AND SIMILAR AMOUNTS.—Net premiums shall be determined without regard to section 808(e) and without regard to other similar amounts treated as paid to, and returned by, the policyholder.

"(4) SPECIAL RULE FOR CERTAIN REINSURANCE.—Premiums and other consideration incurred for reinsurance shall be taken into account under paragraph (1)(B) only to the extent such premiums and other consideration are includible in the gross income of an insurance company taxable under this subchapter or are subject to tax under this chapter by reason of subpart F of part III of subchapter N.

"(d) CLASSIFICATION OF CONTRACTS.—For purposes of this section—

"(1) SPECIFIED INSURANCE CONTRACT.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'specified insurance contract' means any life insurance, annuity, or noncancellable accident and health insurance contract (including any life insurance or annuity contract combined with noncancellable accident and health insurance).

"(B) EXCEPTIONS.—The term 'specified insurance contract' shall not include—

"(i) any pension plan contract (as defined in section 818(a)), and

"(ii) any flight insurance or similar contract.

"(2) GROUP LIFE INSURANCE CONTRACT.—The term 'group life insurance contract' means any life insurance contract—

"(A) which covers a group of individuals defined by reference to employment relationship, membership in an organization, or similar factor,

"(B) the premiums for which are determined on a group basis, and

"(C) the proceeds of which are payable to (or for the benefit of) persons other than the employer of the insured, an organization to which the insured belongs, or other similar person.

"(3) TREATMENT OF ANNUITY CONTRACTS COMBINED WITH NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE.—Any annuity contract combined with noncancellable accident and health insurance shall be treated as a noncancellable accident and health insurance contract and not as an annuity contract.

"(4) TREATMENT OF GUARANTEED RENEWABLE CONTRACTS.—The rules of section 816(e) shall apply for purposes of this section.

"(5) TREATMENT OF REINSURANCE CONTRACT.—A contract which reinsures another contract shall be treated in the same manner as the reinsured contract.

"(e) SPECIAL RULE WHERE NEGATIVE NET PREMIUMS.—

"(1) IN GENERAL.—If for any taxable year there is a negative capitalization amount with respect to any category of specified insurance contracts set forth in subsection (b)(1)—

"(A) the amount otherwise required to be capitalized under this section for such taxable year with respect to any other category of specified insurance contracts shall be reduced (but not below zero) by such negative capitalization amount, and

"(B) such negative capitalization amount (to the extent not taken into account under subparagraph (A))—

"(i) shall reduce (but not below zero) the unamortized balance (as of the beginning of such taxable year) of the amounts previously capitalized under subsection (a) (beginning with the amount capitalized for the most recent taxable year), and

"(ii) to the extent taken into account as such a reduction, shall be allowed as a deduction for such taxable year.

"(2) NEGATIVE CAPITALIZATION AMOUNT.—For purposes of paragraph (1), the term 'negative capitalization amount' means, with respect to any category of specified insurance contracts, the percentage (applicable under subsection (b)(1) to such category) of the amount (if any) by which—

"(A) the amount determined under subparagraph (B) of subsection (c)(1) with respect to such category, exceeds

"(B) the amount determined under subparagraph (A) of subsection (c)(1) with respect to such category.

"(f) TREATMENT OF CERTAIN CEDING COMMISSIONS.—Nothing in any provision of law (other than this section) shall require the capitalization of any ceding commission incurred on or after September 30, 1990, under any reinsurance contract.

"(g) TRANSITIONAL RULE.—In the case of any taxable year which includes September 30, 1990, the amount taken into account as the net premiums (or negative capitalization amount) with respect to any category of specified insurance contracts shall be the amount which bears the same ratio to the amount which (but for this subsection) would be so taken into account as the number of days in such taxable year on or after September 30, 1990, bears to the total number of days in such taxable year."

(b) REPEAL OF SPECIAL TREATMENT OF ACQUISITION EXPENSES UNDER MINIMUM TAX.—Paragraph (4) of section 56(g) is amended by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 848. Capitalization of certain policy acquisition expenses."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years ending on or after September 30, 1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after September 30, 1990.

(B) SPECIAL RULES FOR YEAR WHICH INCLUDES SEPTEMBER 30, 1990.—In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) shall be the amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F).

SEC. 13302. TREATMENT OF CERTAIN NONLIFE RESERVES OF LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Subsection (e) of section 807 (relating to special rules for com-

puting reserves) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TREATMENT OF CERTAIN NONLIFE RESERVES.—

"(A) IN GENERAL.—The amount taken into account for purposes of subsection (a) and (b) as—

"(i) the opening balance of the items referred to in subparagraph (C), and

"(ii) the closing balance of such items,

shall be 80 percent of the amount which (without regard to this subparagraph) would have been taken into account as such opening or closing balance, as the case may be.

"(B) TRANSITIONAL RULE.—

"(i) IN GENERAL.—In the case of any taxable year beginning on or after September 30, 1990, and on or before September 30, 1996, there shall be included in the gross income of any life insurance company an amount equal to 31/3 percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning before September 30, 1990.

"(ii) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if, for any taxable year beginning on or before September 30, 1996, the taxpayer ceases to be a life insurance company, the aggregate inclusions which would have been made under clause (i) for such taxable year and subsequent taxable years but for such cessation shall be taken into account for the taxable year preceding such cessation year.

"(C) DESCRIPTION OF ITEMS.—For purposes of this paragraph, the items referred to in this subparagraph are the items described in subsection (c) which consist of unearned premiums and premiums received in advance under insurance contracts not described in section 816(b)(1)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after September 30, 1990.

SEC. 13303. TREATMENT OF LIFE INSURANCE RESERVES OF INSURANCE COMPANIES WHICH ARE NOT LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking "section 807, pertaining" and all that follows down through the period at the end of the first sentence which follows subparagraph (C) and inserting "section 807.".

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(7) is amended—

(1) by striking "amounts included in unearned premiums under the 2nd sentence of such subparagraph" and inserting "insurance contracts described in section 816(b)(1)(B)", and

(2) by striking "such amounts into account" and inserting "such contracts into account".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after September 30, 1990.

Subpart B—Treatment of Salvage Recoverable

SEC. 13305. TREATMENT OF SALVAGE RECOVERABLE.

(a) GENERAL RULE.—Subparagraph (A) of section 832(b)(5) (defining losses incurred) is amended to read as follows:

"(A) IN GENERAL.—The term 'losses incurred' means losses incurred during the taxable year on insurance contracts computed as follows:

"(i) To losses paid during the taxable year, deduct salvage and reinsurance recovered during the taxable year.

"(ii) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct all unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year.

"(iii) To the results so obtained, add estimated salvage and reinsurance recoverable as of the end of the preceding taxable year and deduct estimated salvage and reinsurance recoverable as of the end of the taxable year.

The Secretary shall by regulations provide that the amounts referred to in clause (iii) shall be determined on a discounted basis in accordance with procedures established in such regulations."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 846 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who is required by reason of the amendments made by this section to change his method of computing losses incurred—

(A) such change shall be treated as a change in a method of accounting,

(B) such change shall be treated as initiated by the taxpayer,

(C) such change shall be treated as having been made with the consent of the Secretary, and

(D) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 to be taken into account by the taxpayer shall be taken into account over a period not to exceed 8 taxable years beginning with the taxpayer's first taxable year beginning after December 31, 1989.

Subpart C—Waiver of Estimated Tax Penalties

SEC. 13307. WAIVER OF ESTIMATED TAX PENALTIES.

No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part.

PART II—COMPLIANCE PROVISIONS

SEC. 13311. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) GENERAL RULE.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

"(1) IN GENERAL.—If any designated summons is issued by the Secretary with respect to any return of tax by a corporation, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

"(A) during any judicial enforcement period—

"(i) with respect to such summons, or

"(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

"(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

"(2) DESIGNATED SUMMONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

"(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

"(B) LIMITATION.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

"(3) JUDICIAL ENFORCEMENT PERIOD.—For purposes of this subsection, the term 'judicial enforcement period' means, with respect to any summons, the period—

"(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

"(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 13312. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) GENERAL RULE.—Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

"(e) SUBSTANTIAL VALUATION MISSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

"(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

"(B)(i) the price for any property or services claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(3) NET SECTION 482 TRANSFER PRICE ADJUSTMENT.—For purposes of this subsection, the term 'net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable

income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the transfer price for any property or services. For purposes of the preceding sentence, rules similar to the rules of the last sentence of section 56(h)(2) shall apply."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

"(3) Any substantial valuation misstatement under chapter 1."

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and

"(iii) '$20,000,000' for '$10,000,000',".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 13313. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) GENERAL RULE.—Subsection (n) of section 6103 (relating to certain other persons) is amended—

(1) by striking "and the programming" and inserting "the programming", and

(2) by inserting after "of equipment," the following "and the providing of other services,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13314. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 13315. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) REQUIREMENT.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorise the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) APPLICABLE RULES.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A), except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) DEFINITIONS.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6038A(a) is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

SEC. 13316. STUDY OF SECTION 482.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of—

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) REPORT.—Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART III—EMPLOYER REVERSIONS

Subpart A—Treatment of Reversions of Qualified Plan Assets to Employers

SEC. 13321. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 13322. ADDITIONAL TAX IF NO REPLACEMENT PLAN.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '50 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 30 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of—

"(I) 30 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includible in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

"(ii) COORDINATION WITH SECTION 415 LIMITATION.—If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause—

"(I) such amount shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

"(iii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

"(iv) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) PRO RATA BENEFIT INCREASES.—

"(A) IN GENERAL.—The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(i) have an aggregate present value not less than 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(ii) take effect immediately on the termination date.

"(B) PRO RATA INCREASE.—For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as—

"(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(ii) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting 'equal to' for 'not less than'.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State law."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer

elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 13323. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

Subpart B—Transfers to Retiree Health Accounts

SEC. 13325. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM COST REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under

title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)), except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 13326. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "4044,".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code), except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART IV—CORPORATE PROVISIONS

SEC. 13331. RECOGNITION OF GAIN BY DISTRIBUTING CORPORATION IN CERTAIN SECTION 355 TRANSACTIONS.

(a) GENERAL RULE.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by striking subsection (c) and inserting the following new subsections:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation on any distribution to which this section (or so much of section 356 as relates to this section) applies and which is not in pursuance of a plan of reorganization.

"(2) DISTRIBUTION OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of subparagraph (A), the term 'qualified property' means any stock or securities in the controlled corporation.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) COORDINATION WITH SECTIONS 311 AND 336(a).—Sections 311 and 336(a) shall not apply to any distribution referred to in paragraph (1).

"(d) RECOGNITION OF GAIN ON CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES IN CONTROLLED CORPORATION.—

"(1) IN GENERAL.—In the case of a disqualified distribution, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(2) DISQUALIFIED DISTRIBUTION.—For purposes of this subsection, the term 'disqualified distribution' means any distribution to which this section (or so much of section 356 as relates to this section) applies if, immediately after the distribution—

"(A) any person holds disqualified stock in the distributing corporation which constitutes a 50-percent or greater interest in such corporation, or

"(B) any person holds disqualified stock in the controlled corporation (or, if stock of more than 1 controlled corporation is distributed, in any controlled corporation) which constitutes a 50-percent or greater interest in such corporation.

"(3) DISQUALIFIED STOCK.—For purposes of this subsection, the term 'disqualified stock' means—

"(A) any stock in the distributing corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, and

"(B) any stock in any controlled corporation—

"(i) acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

"(ii) received in the distribution to the extent attributable to distributions on stock described in subparagraph (A).

"(4) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection, the term '50-percent or greater interest' means stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of 267(b) or 707(b)(1)) shall be treated as one person. For purposes of the preceding sentence, sections 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent' each place it appears.

"(B) PERSONS ACTING PURSUANT TO PLANS OR ARRANGEMENTS.—If two or more persons act pursuant to a plan or arrangement with respect to acquisitions of stock in the distributing corporation or controlled corporation, such persons shall be treated as one person for purposes of this subsection.

"(6) PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'purchase' means any acquisition but only if—

"(i) the basis of the property acquired in the hands of the acquirer is not determined (I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or (II) under section 1014(a),

"(ii) except as provided in regulations, the property is not acquired in an exchange to which section 351, 354, 355, or 356 applies, and

"(iii) the property is not acquired in any other transaction described in regulations.

"(B) CERTAIN 351 EXCHANGES TREATED AS PURCHASES.—The term 'purchase' includes any acquisition of stock in an exchange to which section 351 applies to the extent such stock is acquired in exchange for—

"(i) any cash or cash item,

"(ii) any marketable security, or

"(iii) any debt of the transferor.

"(C) CARRYOVER BASIS TRANSACTIONS.—If—

"(i) any person acquires stock from another person who acquired such stock by purchase (as determined under this paragraph with regard to this subparagraph), and

"(ii) the adjusted basis of such stock in the hands of such acquirer is determined in whole or in part by reference to the adjusted basis of such stock in the hands of such other person,

such acquirer shall be treated as having acquired such stock by purchase on the date it was so acquired by such other person.

"(7) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(A) IN GENERAL.—If this paragraph applies to any stock for any period, the running of the 5-year period set forth in subparagraph (A) or (B)(i) of paragraph (3) (whichever applies) shall be suspended during such period.

"(B) STOCK TO WHICH SUSPENSION APPLIES.—This paragraph applies to any stock for any period during which the holder's risk of loss with respect to such stock is (directly or indirectly) substantially diminished by—

"(i) an option,

"(ii) a short sale,

"(iii) any special class of stock,

"(iv) any device limiting risk from any portion of the activities of the corporation, or

"(v) any other device or transaction.

"(8) ATTRIBUTION FROM ENTITIES.—

"(A) IN GENERAL.—Paragraph (2) of section 318(a) shall apply in determining whether a person holds stock in any corporation (determined by substituting '10 percent' for '50 percent' in subparagraph (C) of such paragraph (2)).

"(B) DEEMED PURCHASE RULE.—If—

"(i) any person acquires by purchase an interest in any entity, and

"(ii) such person is treated under subparagraph (A) as holding any stock by reason of holding such interest,

such stock shall be treated as acquired by purchase by such person on the date of the purchase of the interest in such entity.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to prevent the avoidance of the purposes of this subsection through the use of related persons, pass-thru entities, options, or other arrangements."

(b) TECHNICAL AMENDMENTS.—Subsection (c) of section 361 is amended by adding at the end thereof the following new paragraph:

"(5) CROSS REFERENCE.—

"For provision providing for recognition of gain in certain distributions, see section 355(d)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after October 9, 1990.

(2) TRANSITIONAL RULES.—For purposes of subparagraphs (A) and (B)(i) of section 355(d)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), an acquisition shall be treated as occurring on or before October 9, 1990 if—

(A) such acquisition is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition,

(B) such acquisition is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(C) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

SEC. 13332. MODIFICATIONS TO REGULATIONS ISSUED UNDER SECTION 305(c).

(a) GENERAL RULE.—Subsection (c) of section 305 (relating to certain transactions treated as distributions) is amended by adding at the end thereof the following new sentence: "Regulations prescribed under the preceding sentence shall provide that—

"(1) where the issuer of stock is required to redeem the stock at a specified time or the holder of stock has the option to require the issuer to redeem the stock, a redemption premium resulting from such requirement or option shall be treated as reasonable only if the amount of such premium does not exceed the amount determined under the principles of section 1273(a)(3),

"(2) a redemption premium shall not fail to be treated as a distribution (or series of distributions) merely because the stock is callable, and

"(3) in any case in which a redemption premium is treated as a distribution (or series of distributions), such premium shall

be taken into account under principles similar to the principles of section 1272(a)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after October 9, 1990.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any stock issued after October 9, 1990, if—

(A) such stock is issued pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance, or

(B) such stock is issued pursuant to a registration or offering statement filed on or before October 9, 1990, with a Federal or State agency regulating the offering or sale of securities and such stock is issued before the date 90 days after the date of such filing.

SEC. 13333. MODIFICATIONS TO SECTION 1060.

(a) EFFECT OF ALLOCATION AGREEMENTS.—Subsection (a) of section 1060 (relating to special allocation rules for certain asset allocations) is amended by adding at the end thereof the following new sentence: "If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate."

(b) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTEREST IN ENTITIES.—

(1) IN GENERAL.—Section 1060 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTERESTS IN ENTITIES.—

"(1) IN GENERAL.—If—

"(A) a person who is a 10-percent owner with respect to any entity transfers an interest in such entity, and

"(B) in connection with such transfer, such owner (or a related person) enters into an employment contract, covenant not to compete, royalty or lease agreement, or other agreement with the transferee,

such owner and the transferee shall, at such time and in such manner as the Secretary may prescribe, furnish such information as the Secretary may require.

"(2) 10-PERCENT OWNER.—For purposes of this subsection—

"(A) IN GENERAL.—The term '10-percent owner' means, with respect to any entity, any person who holds 10 percent or more (by value) of the interests in such entity immediately before the transfer.

"(B) CONSTRUCTIVE OWNERSHIP.—Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner."

(2) TECHNICAL AMENDMENT.—Clause (x) of section 6724(d)(1)(B) is amended by striking "section 1060(b)", and inserting "subsection (b) or (e) of section 1060".

(c) INFORMATION REQUIRED IN SECTION 338(h)(10) TRANSACTIONS.—Paragraph (10) of section 338 is amended by adding at the end thereof the following new subparagraph:

"(C) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Under regulations, where an election is made under subparagraph (A), the purchasing corporation and the common parent of the selling consolidated group shall, at such times and in such manner as may be provided in regulations, furnish to the Secretary the following information:

"(i) The amount allocated under subsection (b)(5) to goodwill or going concern value.

"(ii) Any modification of the amount described in clause (i).

"(iii) Any other information as the Secretary deems necessary to carry out the provisions of this paragraph."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 13334. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON NET OPERATING LOSS CARRYBACKS.

(a) REPEAL OF EXCEPTION FOR ACQUISITIONS OF SUBSIDIARIES.—Clause (ii) of section 172(m)(3)(B) (relating to exceptions) is amended to read as follows:

"(ii) EXCEPTION.—The term 'major stock acquisition' does not include a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by subsection (a) shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 13335. ISSUANCE OF DEBT OR STOCK IN SATISFACTION OF INDEBTEDNESS.

(a) ISSUANCE OF DEBT INSTRUMENT.—

(1) Subsection (e) of section 108 (relating to general rules for discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(11) INDEBTEDNESS SATISFIED BY ISSUANCE OF DEBT INSTRUMENT.—

"(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of indebtedness, such debtor shall be treated as having satisfied the indebtedness with an amount of money equal to the issue price of such debt instrument.

"(B) ISSUE PRICE.—For purposes of subparagraph (A), the issue price of any debt instrument shall be determined under sections 1273 and 1274. For purposes of the preceding sentence, section 1273(b)(4) shall be applied by reducing the stated redemption price of any instrument by the portion of such stated redemption price which is treated as interest for purposes of this chapter."

(2) Subsection (a) of section 1275 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) LIMITATION ON STOCK FOR DEBT EXCEPTION.—

(1) IN GENERAL.—Subparagraph (B) of section 108(e)(10) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN STOCK IN TITLE 11 CASES AND INSOLVENT DEBTORS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock of the debtor (other than disqualified stock)—

"(I) by a debtor in a title 11 case, or

"(II) by any other debtor but only to the extent such debtor is insolvent.

"(ii) DISQUALIFIED STOCK.—For purposes of clause (i), the term 'disqualified stock' means any stock with a stated redemption price if—

"(I) such stock has a fixed redemption date,

"(II) the issuer of such stock has the right to redeem such stock at one or more times, or

"(III) the holder of such stock has the right to require its redemption at one or more times."

(2) CONFORMING AMENDMENT.—Paragraph (8) of section 108(e) is amended by adding at the end thereof the following new sentence: "Any stock which is disqualified stock (as defined in paragraph (10)(B)(ii)) shall not be treated as stock for purposes of this paragraph."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to debt instruments issued, and stock transferred, after October 9, 1990, in satisfaction of any indebtedness.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any debt instrument issued, or stock transferred, in satisfaction of any indebtedness if such issuance or transfer (as the case may be)—

(A) is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before October 9, 1990,

(B) is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance or transfer,

(C) is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(D) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

PART V—EMPLOYMENT TAX PROVISIONS

SEC. 13341. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) is amended—

(A) by striking "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears and inserting "applicable contribution base (as determined under subsection (x))", and

(B) by striking "such contribution and benefit base" and inserting "such applicable contribution base".

(2) APPLICABLE CONTRIBUTION BASE.—Section 3121 is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the taxes imposed by sections 3101(a) and 3111(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by section 3101(b) and 3111(b), the applicable contribution base is—

"(A) $73,000 for calendar year 1991, and

"(B) for any calendar year after 1991, $73,000 adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230 of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

(2) Sections 3122 and 3125 are each amended by striking "contribution and benefit base limitation" each place it appears and inserting "applicable contribution base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1991 and later calendar years.

SEC. 13542. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1991.

(b) TRANSITION IN TAX RATES.—In applying sections 3101(b) and 3111(b) of the Internal Revenue Code to service which, but for the amendment made by subsection (a), would not constitute employment for purposes of such sections and which is performed—

(1) after December 31, 1991, and before January 1, 1993, the percentage of wages rate of tax under such sections shall be 0.8 percent (instead of 1.45 percent), and

(2) after December 31, 1992, and before January 1, 1994, the percentage of wages rate of tax under such sections shall be 1.35 percent (instead of 1.45 percent).

(c) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs service both during and before January 1992 which constitutes medicare qualified State or local government employment (as defined in paragraph (3)) only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment performed before January 1, 1992, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1992.

(2) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this subsection, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating clauses (1) through (3) as clauses (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

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

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for and conditions of such eligibility, and (C) the necessity of timely application as a condition of entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such the annuity or retirement benefit is based on a disability.".

SEC. 13543. MANDATORY COVERAGE OF CERTAIN STATE AND LOCAL GOVERNMENT EMPLOYEES WHO ARE NOT MEMBERS OF A STATE OR LOCAL RETIREMENT SYSTEM.

(a) EMPLOYMENT UNDER OASDI.—

(1) IN GENERAL.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

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

(B) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(C) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;".

(2) CONFORMING AMENDMENT.—Paragraph (10) of section 210(a) of such Act (42 U.S.C. 410(a)(10)) is amended, in the matter following subparagraph (B), by inserting after "university" the following: "and such service is not service described in paragraph (7)(F)".

(b) EMPLOYMENT UNDER FICA.—

(1) IN GENERAL.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

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

(B) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(C) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4) of the Social Security Act) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(I) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;".

(2) CONFORMING AMENDMENT.—Paragraph (10) of section 3121(b) of such Code is amended, in the matter following subparagraph (B), by inserting after "university" the following: "and such service is not service described in paragraph (7)(F)".

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

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

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after September 30, 1990.

SEC. 13344. INCREASE IN TIER 2 RAILROAD RETIREMENT TAXES.

(a) TAX ON EMPLOYEES.—Subsection (b) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended by striking "4.90 percent" and inserting "5 percent".

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Paragraph (2) of section 3211(a) of such Code (relating to rate of tax) is amended to read as follows:

"(2) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to 15.05 percent of the compensation received during any calendar year by such employee representative for services rendered by such employee representative."

(c) TAX ON EMPLOYERS.—Subsection (b) of section 3221 of such Code (relating to rate of tax) is amended by striking "16.10 percent" and inserting "16.4 percent".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to compensation received after December 31, 1990.

(2) EMPLOYER TAX.—The amendment made by subsection (c) shall apply to compensation paid after December 31, 1990.

SEC. 13345. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit.".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 13351. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

(a) IN GENERAL.—Part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 68. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

"(a) GENERAL RULE.—In the case of an individual whose adjusted gross income exceeds the applicable amount, the amount of the itemized deductions otherwise allowable for the taxable year shall be reduced by the lesser of—

"(1) 3 percent of the excess of adjusted gross income over the applicable amount, or

"(2) 80 percent of the amount of the itemized deductions otherwise allowable for such taxable year.

"(b) APPLICABLE AMOUNT.—For purposes of this section, the term 'applicable amount' means $100,000 ($50,000 in the case of a separate return by a married individual within the meaning of section 7703).

"(c) EXCEPTION FOR CERTAIN ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'itemized deductions' does not include—

"(1) the deduction under section 213 (relating to medical, etc. expenses),

"(2) any deduction for investment interest (as defined in section 163(d)), and

"(3) the deduction under section 165(a) for losses described in subsection (c)(3) or (d) of section 165.

"(d) COORDINATION WITH OTHER LIMITATIONS.—This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

"(e) EXCEPTION FOR ESTATES AND TRUSTS.—This section shall not apply to any estate or trust."

(b) COORDINATION WITH MINIMUM TAX.—Paragraph (1) of section 56(b) is amended by adding at the end thereof the following new subparagraph:

"(F) SECTION 68 NOT APPLICABLE.—Section 68 shall not apply."

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 68. Overall limitation on itemized deductions."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13352. DISALLOWANCE OF DEDUCTION FOR INTEREST ON UNPAID CORPORATE TAXES.

(a) GENERAL RULE.—Section 163 (relating to interest) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) DISALLOWANCE OF DEDUCTION FOR INTEREST ON UNPAID CORPORATE TAXES.—In the case of a corporation, no deduction shall be allowed under this subtitle for any interest paid or accrued under subtitle F on any underpayment of tax imposed by this title or on any other liability arising under this title."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest attributable to periods after December 31, 1990.

TITLE XIV—BUDGET PROCESS REFORM

SEC. 14001. TABLE OF CONTENTS.

TITLE XIV—BUDGET PROCESS REFORM

Subtitle A—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985 and Related Amendments

PART I—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

SEC. 14101. SEQUESTRATION.

Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) is amended to read as follows:

"SEC. 250. TABLE OF CONTENTS; DEFINITIONS.

"(a) TABLE OF CONTENTS.—

"(b) DEFINITIONS.—

"As used in this part:

"(1) The terms 'budget authority', 'outlays', and 'deficit' have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 (but including the treatment specified in section 257(b)(3) of the Health Insurance Trust Fund) and the terms 'maximum deficit amount' and 'discretionary spending limit' shall mean the amounts specified in section 601 of that Act as adjusted under sections 251 and 253 of this Act.

"(2) The terms 'sequester' and 'sequestration' refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

"(3) The term 'breach' means, for any fiscal year, the amount (if any) by which new budget authority or outlays for that year (within a category of discretionary appropriations) is above that category's discre

tionary spending limit for new budget authority or outlays for that year, as the case may be.

"(4) The term 'category' means:

"(A) For fiscal years 1991, 1992, and 1993, any of the following subsets of discretionary appropriations: defense, international, or domestic. Discretionary appropriations in the defense category shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. Discretionary appropriations in the international category shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. All other discretionary appropriations shall be in the domestic category. New accounts or activities shall be categorized in accordance with the procedures set forth in section 1104 of title 31, United States Code.

Contributions to the United States to offset the cost of operation desert shield are not counted within any category.

"(B) For fiscal years 1994 and 1995, all discretionary appropriations.

"(5) The term 'baseline' means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

"(6) The term 'budgetary resources' means—

"(A) with respect to budget year 1991, new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; direct spending authority; and obligation limitations; or

"(B) with respect to budget year 1992, 1993, 1994, or 1995, new budget authority; unobligated balances; direct spending authority; and obligation limitations.

"(7) The term 'discretionary appropriations' means budgetary resources (except to fund direct-spending programs) provided in appropriation Acts.

"(8) The term 'direct spending' means—

"(A) budget authority provided by law other than appropriation Acts;

"(B) budget authority for mandatory appropriations; and

"(C) the food stamp program.

"(9) The term 'current' means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31, United States Code, the estimates consistent with the economic Rand technical assumptions underlying that budget and with respect to estimates made after submission of the fiscal year 1992 budget that are not included with a budget submission, estimates consistent with the economic and technical assumptions underlying the most recently submitted President's budget.

"(10) The term 'real economic growth', with respect to any fiscal year, means the growth in the gross national product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

"(11) The sale of an asset means the sale to the public of—

"(A) any financial asset sold in fiscal year 1991,

"(B) any financial asset other than a loan asset sold after fiscal year 1991, or

"(C) any physical asset other than one produced on a current basis,

except any asset acquired by the Government under an insurance program or as a result of a default under a loan or loan-guarantee program.

"(12) The term 'prepayment of a loan' means payments to the United States made in advance of the slowest payment schedule allowed or set by law or contract when the financial asset is first acquired.

"(13) The term 'account' means an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriation Acts, such term means an item for which there is a designated budget account identification code number in the President's budget.

"(14) The term 'budget year' means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

"(15) The term 'current year' means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

"(16) The term 'outyear' means, with respect to a budget year, any of the fiscal years that follow the budget year through fiscal year 1995.

"(17) The term 'OMB' means the Director of the Office of Management and Budget.

"(18) The term 'CBO' means the Director of the Congressional Budget Office.

"SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.

"(a) Fiscal Years 1991-1995 Enforcement.—

"(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session, there shall be a sequestration to eliminate a budget-year breach, if any, within any category.

"(2) Eliminating a breach.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the enacted level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category; except that the health programs set forth in section 256(e) shall not be reduced by more than 2 percent and the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to eliminate that breach. If, within a category, the discretionary spending limits for both new budget authority and outlays are breached, the uniform percentage shall be calculated by—

"(A) first, calculating the uniform percentage necessary to eliminate the breach in new budget authority, and

"(B) second, if any breach in outlays remains, increasing the uniform percentage to a level sufficient to eliminate that breach.

"(3) MILITARY PERSONNEL.—If the President uses the authority to exempt any military personnel from sequestration under section 255(h), each account within subfunctional category 051 other than those military personnel accounts for which the authority provided under section 255(h), has been exercised shall be further reduced by a dollar amount calculated by multiplying the enacted level of non-exempt budgetary resources in that account at that time by the uniform percentage necessary to offset the total dollar amount by which outlays are not reduced in military personnel accounts by reason of the use of such authority.

"(4) PART-YEAR APPROPRIATIONS.—If, on the date specified in paragraph (1), there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then—

"(A) the enacted amount in that account shall be deemed to be the annualized amount otherwise available by law; and

"(B) the dollar sequestration calculated for that account under paragraphs (2) and (3) shall be subtracted from—

"(i) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(ii) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation.

"(5) LOOK-BACK.—If, after the date specified in paragraph (1), an appropriation for the fiscal year in progress is enacted that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category), the discretionary spending limits for that category for the next fiscal year shall be reduced by the amount or amounts of that breach.

"(6) OMB ESTIMATES.—Within 5 calendar days after the enactment of any discretionary appropriations, OMB shall publish in the Federal Register an estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation. OMB shall use those published estimates for the purposes of this subsection.

"(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—(1) When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1995 to reflect the following:

"(A) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustments produced by the amendments made by subtitles A and B of title XIV of the Omnibus Budget Reconciliation Act of 1990 or by any other changes in concepts and definitions shall be the baseline levels of new budget authority and outlays using current concepts and definitions minus those levels using the concepts and definitions in effect before such changes.

"(B) CHANGES IN INFLATION.—(i) For a budget submitted for budget year 1992 or 1993, the adjustments produced by changes in inflation shall be the levels of discretionary new budget authority and outlays in the baseline (calculated using current estimates) subtracted from those levels in that baseline recalculated with the baseline inflators multiplied by the inflation adjustment factor computed under clause (ii).

"(ii) For a budget year the inflation adjustment factor shall be the ratio between the level of cumulative inflation measured for the fiscal year most recently completed and the applicable estimated level for that year set forth below:

"For 1990, 130.3.

"For 1991, 137.1.

"For 1992, 142.7.

"For 1993, 147.4.

Cumulative inflation shall be measured by the index of the fiscal year average of the estimated gross national product implicit price deflator, with the calendar year 1989 index equal to 100.0.

"(C) CREDIT REESTIMATES.—For a budget submitted for budget year 1993 or 1994, the adjustments produced by reestimates to costs of Federal credit programs shall be, for any such program, a current estimate of new budget authority and outlays associated with a baseline projection of the prior year's gross loan level for that program minus the baseline projection of the prior year's new budget authority and associated outlays for that program.

(2) When OMB submits a sequestration report under section 254(e) for fiscal year 1991, 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the sequestration report and subsequent budgets submitted by the President under section

1105(a) of title 31, United States Code, shall include, adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year through 1995, as follows:

"(A) IRS FUNDING.—To the extent that appropriations requested by the President are enacted that provide additional new budget authority or result in additional outlays (as compared to the summer 1990 CBO baseline) for the Internal Revenue Service compliance initiative in any fiscal year, the adjustments for that year shall be those amounts, but shall not exceed the amounts set forth below:

"For fiscal year 1991, $191,000,000 in new budget authority and $183,000,000 in outlays.

"For fiscal year 1992, $172,000,000 in new budget authority and $169,000,000 in outlays.

"For fiscal year 1993, $183,000,000 in new budget authority and $179,000,000 in outlays.

"For fiscal year 1994, $187,000,000 in new budget authority and $183,000,000 in outlays.

"For fiscal year 1995, $188,000,000 in new budget authority and $184,000,000 in outlays.

"(B) DEBT FORGIVENESS.—If in calendar year 1990 or 1991 an appropriation is enacted that provides debt relief proposed by the President and approved by the Congress, the adjustments shall be the estimated costs of that forgiveness, but shall not exceed the amounts set forth below:

"For fiscal year 1991, $157,000,000 in new budget authority and $207,000,000 in outlays.

"For fiscal year 1992, $177,000,000 in new budget authority and $294,000,000 in outlays.

"For fiscal year 1993, $205,000,000 in new budget authority and $361,000,000 in outlays.

"For fiscal year 1994, $246,000,000 in new budget authority and $446,000,000 in outlays.

"For fiscal year 1995, $300,000,000 in new budget authority and $522,000,000 in outlays.

"(C) IMF FUNDING.—If, for fiscal year 1992, 1993, 1994, or 1995, an appropriation is enacted that provides amounts for a quota increase to the International Monetary Fund, the adjustment shall be the amount provided.

"(D) EMERGENCY APPROPRIATIONS.—If, for fiscal year 1991, 1992, 1993, 1994, or 1995, appropriations are enacted that the President determines are for emergency purposes, the adjustment shall be the total of such appropriations determined to be for emergency purposes and the outlays flowing in all years from such appropriations.

"(E) SPECIAL ALLOWANCE FOR NEW BUDGET AUTHORITY.—If, for fiscal year 1991, 1992, or 1993, the amount of discretionary new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category for a fiscal year, the adjustment is the amount of the excess, but not to exceed 0.2 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for that year. However, the sum of special allowance adjustments in all categories for that year shall not exceed 0.4 percent of the sum of the limits on new budget authority for all categories for that year. Adjustments that would exist but for the preceding sentence shall be reduced by the uniform percentage necessary to comply with that sentence.

"(F) SPECIAL OUTLAY ALLOWANCE.—If in any fiscal year except 1991 outlays for a category exceed the discretionary spending limit for that category but new budget authority does not exceed its limit for that category (after application of the first step of a sequestration described in subsection (a)(2), if necessary), the adjustment is the amount of the excess, but not to exceed $2,500,000,000 in the defense category, $1,500,000,000 in the international category, or $2,500,000,000 in the domestic category (as applicable) in fiscal year 1992 or 1993, and not to exceed $6,500,000,000 in fiscal year 1994 or 1995.

"(c) APPLICABILITY OF ADJUSTED LIMITS.—Discretionary spending limits as adjusted by this section shall be considered to be the applicable limits for all purposes of this Act.

"SEC. 252. ENFORCING PAY-AS-YOU-GO.

"(a) FISCAL YEARS 1992-1995 ENFORCEMENT.—The purpose of this section is to assure that any legislation (enacted after the date of enactment of this section) affecting direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

"(b) SEQUESTRATION; LOOK-BACK.—On October 15 of each fiscal year, there shall be a sequestration to offset the amount of any net deficit increase in that fiscal year and the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts in a prior year). OMB shall calculate the amount of deficit increase, if any, in those fiscal years by adding—

"(1) all estimates of direct spending and receipts legislation published under subsection (e) applicable to those fiscal years, except that any amounts included in such estimates resulting from full funding of, and continuation of, deposit insurance law in effect on the date of enactment of this section shall not be included in the addition; and

"(2) the estimated amount of savings in direct spending programs applicable to those fiscal years resulting from the prior year's sequestration under this section or section 253, if any, as published in OMB's October 15 sequestration report for that year.

"(c) ELIMINATING A DEFICIT INCREASE.—(1) The first $5,000,000,000 required to be sequestered in a fiscal year under subsection (a) shall be obtained from non-exempt direct spending accounts. Half of any remaining amounts required to be sequestered in that fiscal year, if any, shall be obtained from such accounts and half from non-exempt discretionary appropriation accounts.

"(2) Actions to reduce direct spending accounts shall be taken in the following order:

"(A) FIRST.—All reductions in automatic spending increases specified in section 256(a) shall be made.

"(B) SECOND.—If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

"(C) THIRD.—If additional reductions in direct spending accounts are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by paragraph (1); except that the medicare programs specified in section 256(d) shall not be reduced by more than 4 percent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

"(3) Each non-exempt discretionary appropriation account shall be reduced by the uniform percentage necessary to make the reductions in discretionary appropriations required by paragraph (1); except that the health programs set forth in section 256(e) shall not be reduced by more than 2 percent and the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to eliminate that breach; except that adjustments shall be made if any military personnel are exempt under the procedure set forth in section 251(a)(3).

"(4) For purposes of this subsection, accounts shall be assumed to be at the level in the baseline.

"(d) PART-YEAR APPROPRIATIONS.—If, on October 15, there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then the dollar sequestration calculated for that account under subsection (c) shall be subtracted from—

"(1) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(2) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation; except that the amount to be subtracted from that account shall be reduced (but not below zero) by the savings achieved by that appropriation when the enacted amount is less than the baseline for that account.

"(e) OMB ESTIMATES.—Within 15 calendar days after the enactment of any direct spending or receipts legislation enacted after the date of enactment of this section, OMB shall publish in the Federal Register an estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using current economic and technical assumptions.

"SEC. 253. ENFORCING DEFICIT TARGETS.

"(a) SEQUESTRATION.—On October 15 of each fiscal year, after any sequestration required by section 252 (pay-as-you-go), there shall be a sequestration to eliminate the excess deficit (if any remains) if it exceeds the margin. The excess deficit is the amount, if any, by which the estimated deficit for the budget year exceeds the maximum deficit amount for that year minus the deposit insurance reestimate for that year, if any, calculated under subsection (h).

"(b) ESTIMATED DEFICIT; MARGIN.—

"(1) ESTIMATED DEFICIT.—The estimated deficit for the budget year is the baseline deficit for that year on the applicable snapshot date minus any reductions required to be made under section 252, except that for purposes of estimating the deficit, outlays for discretionary appropriations shall be assumed to be at the discretionary spending limits set forth in the most recent President's budget submitted under section 1105(a) of title 31, United States Code, for that year, rather than at baseline levels.

"(2) MARGIN.—The 'margin' for fiscal year 1994 or 1995 is $15,000,000,000 minus any outlay adjustments for that year under section 251(b)(2)(A)(ii).

"(c) DIVIDING THE SEQUESTRATION.—To eliminate the excess deficit in a budget year, half of the required outlay reductions shall be obtained from non-exempt defense accounts (accounts designated as function 050 in the President's fiscal year 1991 budget submission) and half from non-exempt, non-defense accounts (all other non-exempt accounts).

"(d) DEFENSE.—Each non-exempt defense account shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (c)(2), except that adjustments shall be made if any military personnel are exempt under the procedure set forth in section 251(a)(3).

"(e) NON-DEFENSE.—Actions to reduce non-defense accounts shall be taken in the following order:

"(1) FIRST.—All reductions in automatic spending increases under section 256(a) shall be made.

"(2) SECOND.—If additional reductions in non-defense accounts are required to be made, the maximum reduction permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

"(3) THIRD.—If additional reductions in non-defense accounts are required to be made, each remaining non-exempt, non-defense account shall be reduced by the uniform percentage necessary to make the reductions in non-defense outlays required by subsection (c)(2), except that—

"(A) the medicare program specified in section 256(d) shall not be reduced by more than 2 percent in total including any reduction of less than 2 percent made under section 252 or, if it has been reduced by 2 percent or more under section 252, it may not be further reduced under this section; and

"(B) the health programs set forth in section 256(e) shall not be reduced by more than 2 percent in total (including any reduction made under section 252),

and the uniform percent applicable to all other programs under this subsection shall be increased (if necessary) to a level sufficient to achieve the required reduction in non-defense outlays.

"(f) BASELINE ASSUMPTIONS; PART-YEAR APPROPRIATIONS.—

"(1) BUDGET ASSUMPTIONS.—For purposes of subsections (c), (d), and (e), accounts shall be assumed to be at the level in the baseline.

"(2) PART-YEAR APPROPRIATIONS.—If, on October 15, there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then the dollar sequestration calculated for that account under subsection (d) or (e), as applicable, shall be subtracted from—

"(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation; except that the amount to be sequestered from that account shall be reduced (but not below zero) by the savings achieved by that appropriation when the enacted amount is less than the baseline for that account.

"(g) ADJUSTMENTS TO MAXIMUM DEFICIT AMOUNTS.—

"(1) ADJUSTMENTS.—

"(A) When the President submits the budget for fiscal year 1992, the maximum deficit amounts for fiscal years 1992, 1993, 1994, and 1995 shall be adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions. When the President submits the budget for fiscal year 1993, the maximum deficit amounts for fiscal years 1993, 1994, and 1995 shall be further adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions.

"(B) When submitting the budget for fiscal year 1994, the President may choose to adjust the maximum deficit amounts for fiscal years 1994 and 1995 to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions. If the President chooses to adjust the maximum deficit amount when submitting the fiscal year 1994 budget, the President may choose to invoke the same adjustment procedure when submitting the budget for fiscal year 1995. In each case, the President must choose between making no adjustment or the full adjustment described in paragraph (2). If the President chooses to make that full adjustment, then those procedures for adjusting discretionary spending limits described in sections 251(b)(1)(B), 251(b)(1)(C), and 251(b)(2)(E), otherwise applicable through fiscal year 1993 or 1994 (as the case may be), shall be deemed to apply for fiscal year 1994 (and 1995 if applicable).

Each adjustment shall be made by increasing or decreasing the maximum deficit amounts set forth in section 601 of the Congressional Budget Act of 1974.

"(2) CALCULATIONS OF ADJUSTMENTS.—The required increase or decrease shall be calculated as follows:

"(A) The baseline deficit or surplus shall be calculated using up-to-date economic and technical assumptions, using current concepts and definitions, and for the levels of discretionary appropriations, using the discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974 as adjusted under section 251.

"(B) The net deficit increase or decrease caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts) shall be calculated for each fiscal year by adding—

"(i) the estimates of direct spending and receipts legislation published under section 252(e) applicable to each such fiscal year; and

"(ii) the estimated amount of savings in direct spending programs applicable to each such fiscal year resulting from the prior year's sequestration under this section or section 252 of direct spending, if any, as published in OMB's final sequestration report for that year.

"(C) The amount calculated under subparagraph (B) shall be subtracted from the amount calculated under subparagraph (A).

"(D) The maximum deficit amount set forth in section 601 of the Congressional Budget Act of 1974 shall be subtracted from the amount calculated under subparagraph (C).

"(E) The amount calculated under subparagraph (D) shall be the amount of the adjustment required by paragraph (1).

"(h) TREATMENT OF DEPOSIT INSURANCE.—

"(1) INITIAL ESTIMATES.—The initial estimates of the net costs of federal deposit insurance (assuming full funding of, and continuation of, existing law) are as follows:

"For fiscal year 1992, $77,700,000,000.

"For fiscal year 1993, $18,800,000,000.

"For fiscal year 1994, −$54,200,000,000.

"For fiscal year 1995, −$45,300,000,000.

"(2) REESTIMATES.—For any fiscal year, the amount of the reestimate of deposit insurance costs shall be calculated by subtracting the amount set forth in paragraph (1) for that year from the current estimate of deposit insurance costs (but assuming full funding of, and continuation of, deposit insurance law in effect on the date of enactment of this section).

"SEC. 254. REPORTS AND ORDERS.

"(a) TIMETABLE.—The timetable with respect to this part for any budget year is as follows:

"On or before:	Action to be completed:
First Monday in February.	Lock in OMB estimating assumptions.
August 15	Initial snapshot.
August 20	Sequester preview report;
Latest possible date before October 15.	Final snapshot.
October 15	Pay-as-you-go and deficit sequester reports; Presidential order.
Within 15 days after end of session.	Discretionary sequester reports; Presidential order.
30 Days later	GAO compliance report.

If any date specified in this section falls on a Sunday or legal holiday, then the requirements for that date shall be considered to fall on the following day.

"(b) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION PREVIEW REPORTS.—

"(1) REPORTING REQUIREMENT.—On the date specified in subsection (a), OMB and CBO shall each issue a preview report regarding pay-as-you-go and deficit sequestration to the President and the Congress based on laws enacted through the initial snapshot date.

"(2) PAY-AS-YOU-GO SEQUESTRATION PREVIEW.—The reports referred to in paragraph (1) shall set forth, for the current year and the budget year, estimates for each of the following:

"(A) The amount of net deficit increase or decrease, if any, calculated under subsection 252(b).

"(B) A list identifying each law enacted after the date of enactment of this section included in the calculation of the amount of deficit increase and specifying the budgetary effect of each such law.

"(C) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 252(c).

"(3) DEFICIT SEQUESTRATION PREVIEW.—The reports referred to in paragraph (1) shall set forth for the budget year estimates for each of the following:

"(A) The maximum deficit amount, the estimated deficit calculated under section 253(b), the excess deficit, and the margin.

"(B) The reductions required under section 252, the excess deficit remaining after those reductions have been made, and the reductions required from defense accounts and the reductions required from non-defense accounts.

"(C) The sequestration percentage necessary to achieve the required reduction in defense accounts under section 253(d).

"(D) The reductions required under sections 253(e)(1) and 253(e)(2).

"(E) The sequestration percentage necessary to achieve the required reduction in non-defense accounts under section 253(e)(3).

The reports shall explain the differences (if any) between OMB and CBO estimates for each item set forth in this subsection.

"(c) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before the initial snapshot date specified in subsection (a), the President shall notify the Congress if he intends to exercise flexibility with respect to military personnel accounts under section 255(h).

"(d) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORT; PRESIDENTIAL ORDER.—

"(1) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORT.—On the date specified in subsection (a), OMB and CBO shall each issue

a pay-as-you-go and deficit sequestration report, updated to reflect laws enacted through the final snapshot date, containing all of the information required in the pay-as-you-go and deficit sequestration preview report. In addition, these reports shall contain, for the budget year, for each nonexempt account subject to sequestration, estimates of the baseline level of sequestrable budgetary resources and resulting outlays and the amount and percentage of budgetary resources to be sequestered and resulting outlay reductions. The reports shall also contain estimates of the effects on outlays of the sequestration in each outyear through 1995 for direct spending programs. The reports shall explain significant differences (if any) between OMB and CBO estimates for each such account.

"(2) PRESIDENTIAL ORDER.—On the date specified in subsection (a), if in its pay-as-you-go and deficit sequestration report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by OMB calculations set forth in that report. This order shall be effective on issuance.

"(e) DISCRETIONARY SEQUESTRATION REPORT; PRESIDENTIAL ORDER.—

"(1) DISCRETIONARY SEQUESTRATION REPORT.—Within 15 days after Congress adjourns to end a session, OMB and CBO shall each issue a discretionary sequestration report to the President and the Congress setting forth estimates for each of the following:

"(A) For the current year and each subsequent year through 1995 the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

"(B) For the current year and the budget year the estimated new budget authority and outlays for each category and the breach, if any, in each category.

"(C) For each category for which a sequestration is required, the sequestration percentage necessary to achieve the required reduction.

"(D) For the budget year, for each nonexempt account subject to sequestration, estimates of the enacted level of sequestrable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions, and an explanation of significant differences, if any, between OMB and CBO estimates for each such account.

"(2) PRESIDENTIAL ORDER.—On the date specified in subsection (a), if in its discretionary sequestration report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by OMB calculations set forth in that report. This order shall be effective on issuance.

"(f) GAO COMPLIANCE REPORT.—On the date specified in subsection (a), the Comptroller General shall submit to the Congress and the President a report on—

"(1) the extent to which each order issued by the President under this section complies with all of the requirements contained in this part, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

"(2) the extent to which each report issued by OMB or CBO under this section complies with all of the requirements contained in this part, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not.

"(g) LOW-GROWTH REPORT.—At any time, CBO shall notify the Congress if—

"(1) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, CBO or OMB has determined that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

"(2) the Department of Commerce advance reports of actual real economic growth (or any subsequent revision thereof) indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than one percent.

"(h) ECONOMIC AND TECHNICAL ASSUMPTIONS.—In all reports required by this section, OMB shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.

"(i) PRINTING OF REPORTS.—Each report submitted under this section shall be submitted to the Federal Register on the day that it is issued and printed on the following day.

"SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

"(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act, or in benefits payable under section 3(a), 3(f)(3), 4(a), or 4(f) of the Railroad Retirement Act of 1974, shall be exempt from reduction under any order issued under this part.

"(b) NET INTEREST.—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this part.

"(c) VETERANS PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

National Service Life Insurance Fund (36-8132-0-7-701);

Service-Disabled Veterans Insurance Fund (36-4012-0-3-701);

Veterans Special Life Insurance Fund (36-8455-0-8-701);

Veterans Reopened Insurance Fund (36-4010-3-701);

United States Government Life Insurance Fund (36-8150-0-7-701);

Veterans Insurance and Indemnity (36-0120-0-1-701);

Special Therapeutic and Rehabilitation Activities Fund (36-4048-0-3-703);

Veterans' Canteen Service Revolving Fund (36-401-0-3-705);

Benefits under chapter 21 of title 38, United States Code, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities (36-0137-0-1-702);

Benefits under section 907 of title 38, United States Code, relating to burial benefits for veterans who die as a result of service-connected disability (36-0155-0-1-701);

Benefits under chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled and members of the Armed Forces (36-0137-0-1-702);

Veterans' compensation (36-0153-0-1-701); and

Veterans' pensions (36-0154-0-1-701).

"(d) EARNED INCOME TAX CREDIT.—Payments to individuals made pursuant to section 32 of the Internal Revenue Code of 1954 shall be exempt from reduction under any order issued under this part.

"(e) TREATMENT OF PAYMENTS AND ADVANCES MADE WITH RESPECT TO UNEMPLOYMENT COMPENSATION PROGRAMS.—For purposes of this part—

"(1) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act),

"(2) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act, and

"(3) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account,

shall be exempt from reduction under any order issued under this part.

"(f) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

Aid to families with dependent children (75-0412-0-1-609);

Child nutrition (12-3539-0-1-605);

Commodity supplemental food program (12-3512-0-1-605);

Food stamp programs (12-3505-0-1-605 and 12-3550-0-1-605);

Grants to States for Medicaid (75-0512-0-1-551);

Supplemental Security Income Program (75-0406-0-1-609); and

Women, infants, and children program (12-3510-0-1-605).

"(g) NON-DEFENSE UNOBLIGATED BALANCES.—Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense category, shall be exempt from reduction under any order issued under this part.

"(h) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

"(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

"(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

"(i) OTHER PROGRAMS AND ACTIVITIES.—

"(1) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

Activities resulting from private donations, bequests, or voluntary contributions to the Government;

Administration of Territories, Northern Marianna Islands Government grants (14-0412-0-1-806);

Alaska Power Administration, Operations and maintenance (89-0304-0-1-271);

Appropriations for the District of Columbia (to the extent they are appropriations of locally raised funds);

Bonneville Power Administration fund and borrowing authority established pursuant to section 13 of Public Law 93-454 (1974), as amended (89-4045-0-3-271);

Black lung benefits (20-8144-0-7-601),

Bureau of Indian Affairs, miscellaneous payments to Indians (14-2303-0-1-452);

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14-9973-0-7-999);

CIA retirement and disability system fund (56-3400-0-1-054);

Civil Service retirement and disability fund (24-8135-0-7-602);

Claims, defense (97-0102-0-1-051);

Claims, judgments, and relief acts (20-1895-0-1-806);

Coinage profit fund (20-5811-0-2-803);
Compact of Free Association, economic assistance pursuant to Public Law 99-658;
Compensation of the President (11-0001-0-1-802);
Comptroller General retirement system (05-0107-0-1-801);
Comptroller of the Currency;
Customs service permanent appropriations (20-9922-0-2-852);
Director of the Office of Thrift Supervision;
Dual benefits payments account (60-0111-0-1-601);
Eastern Indian and land claims settlement fund (14-2202-0-1-806);
Exchange stabilization fund (20-4444-0-3-155);
Farm Credit System Financial Assistance Corporation, interest payments;
Federal Deposit Insurance Corporation;
Federal Deposit Insurance Corporation, Bank Insurance Fund;
Federal Deposit Insurance Corporation, FSLIC Resolution Fund;
Federal Deposit Insurance Corporation, Savings Association Insurance Fund;
Federal Housing Finance Board;
Federal payment to the railroad retirement account (60-0113-0-1-601);
Foreign military sales trust fund (11-8242-0-7-155);
Foreign service retirement and disability fund (19-8186-0-7-602);
Health professions graduate student loan insurance fund (Health Education Assistance Loan Program) (75-4305-0-3-553);
Higher education facilities loans and insurance (91-0240-0-1-502);
Internal Revenue collections for Puerto Rico (20-5737-0-2-852);
Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect;
Judicial survivors' annuities fund (10-8110-0-7-602);
Longshoremens' and harborworkers' compensation benefits (16-9971-0-7-601);
Medical facilities guarantee and loan fund, Federal interest subsidies for medical facilities (75-4430-0-3-551);
Military retirement fund (97-8097-0-7-602);
National Credit Union Administration;
National Credit Union Administration, central liquidity facility;
National Credit Union Administration, credit union share insurance fund;
National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306);
Panama Canal Commission, operating expenses and Panama Canal Commission, capital outlay (95-5190-0-2-403);
Payment of Vietnam and USS Pueblo prisoner-of-war claims (15-0104-0-1-153);
Payment to civil service retirement and disability fund (24-0200-0-1-805);
Payments to copyright owners (03-5175-0-2-376);
Payments to health care trust funds (75-0580-0-1-572);
Payments to military retirement fund (97-0040-0-1-054);
Payments to social security trust funds (75-0404-0-1-571);
Payments to the foreign service retirement and disability fund (11-1036-0-1-153 and 19-0540-0-1-153);
Payments to the United States territories; fiscal assistance;
Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds;
Payments to widows and heirs of deceased Members of Congress (00-215-0-1-801);
Pensions for former Presidents (47-0105-0-1-802);
Postal service fund (18-4020-0-3-372);
Railroad retirement tier II (60-8011-0-7-601);
Resolution Funding Corporation;
Resolution Trust Corporation;
Retired pay, Coast guard (69-0241-0-1-403);
Retirement pay and medical benefits for commssioned officers, Public Health Service (75-0379-0-1-551);
Salaries of Article III judges;
Special benefit, Federal Employee's Compensation Act (16-1521-0-1-600);
Special benefits for disabled coal miners (75-0409-0-1-601);
Soldiers and Airmen's Home, payment of claims (84-8930-0-7-705);
Southeastern Power Administration, Operations and maintenance (89-0302-0-1-271);
Southwestern Power Administration, Operations and maintenance (89-0303-0-1-271);
Tax Court judges survivors annuity fund (23-8115-0-7-602);
Tennessee Valley Authority fund, except nonpower programs and activities (64-4110-0-3-999);
Thrift Savings Fund (26-8141-0-7-602);
WMATA, interest payments (46-0300-0-1-401);
Western Area Power Administration, Construction, rehabilitation, operations, and maintenance (89-5068-0-2-271); and
Western Area Power Administration, Colorado River basins power marketing fund (89-4452-0-3-271).
Western Area Power Administration, Colorado River basins power marketing fund (89-4452-0-3-271);

"(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:

Agency for International Development, Housing, and other credit guarantee programs (72-4340-0-3-151);
Agricultural credit insurance fund (12-4140-0-3-351);
Biomass energy development (20-0114-0-1-271);
Check forgery insurance fund (20-4109-0-3-803);
Community development grant loan guarantees (86-0162-0-1-451);
Credit union share insurance fund (25-4466-0-3-371);
Economic development revolving fund (13-4406-0-3-452);
Employees life insurance fund (24-8424-0-8-602);
Energy security reserve (Synthetic Fuels Corporation) (20-0112-0-1-271);
Export-Import Bank of the United States, Limitation of program activity (83-4027-0-3-155);
Federal Aviation Administration, Aviation insurance revolving fund (69-4120-0-3-402);
Federal Crop Insurance Corporation fund (12-4085-0-3-351);
Federal Emergency Management Agency, National flood insurance fund (58-4236-0-3-453);
Federal Emergency Management Agency, National insurance development fund (58-4235-0-3-451);
Federal Housing Administration fund (86-4070-0-3-371);
Federal ship financing fund (69-4301-0-3-403);
Federal ship financing fund, fishing vessels (13-4417-0-3-376);
Geothermal resources development fund (89-0206-0-1-271);
Government National Mortgage Association, Guarantees of mortgage-backed securities (86-4238-0-3-371);
Health education loans (75-4307-0-3-553);
Homeowners assistance fund, Defense (97-4090-0-3-051);
Indian loan guarantee and insurance fund (14-4410-0-3-452);
International Trade Administration, Operations and administration (13-1250-0-1-376);
Low-rent public housing, Loans and other expenses (86-4098-0-3-604);
Maritime Administration, War-risk insurance revolving fund (69-4302-0-3-403);
Overseas Private Investment Corporation (71-4030-0-3-151);
Pension Benefit Guaranty Corporation fund (16-4204-0-3-601);
Rail service assistance (69-0122-0-1-401);
Railroad rehabilitation and improvement financing fund (69-4411-0-3-401);
Rural development insurance fund (12-4155-0-3-452);
Rural electric and telephone revolving fund (12-4230-8-3-271);
Rural housing insurance fund (12-4141-0-3-371);
Small Business Administration, Business loan and investment fund (73-4154-0-3-376);
Small Business Administration, Lease guarantees revolving fund (73-4157-0-3-376);
Small Business Administration, Pollution control equipment contract guarantee revolving fund (73-4147-0-3-376);
Small Business Administration, Surety bond guarantees revolving fund (73-4156-0-3-376);
Veterans Administration, Loan guaranty revolving fund (36-4025-0-3-704);
Veterans Administration, Servicemen's group life insurance fund (36-4009-0-3-701).

"(j) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (f) and (h), programs are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government, 1986—Appendix.

"(k) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—

"(1) Notwithstanding any other provision of this title, administrative expenses incurred by the departments and agencies, including independent agencies, of the Federal Government in connection with any program, project, activity, or account shall be subject to reduction pursuant to an order issued under section 255, without regard to any exemption, exception, limitation, or special rule which is otherwise applicable with respect to such program, project, activity, or account under this part.

"(2) Notwithstanding any other provision of law, administrative expenses of any program, project, activity, or account which is self-supporting and does not receive appropriations shall be subject to reduction under a sequester order, unless specifically exempted in this joint resolution.

"(3) Payments made by the Federal Government to reimburse or match administrative costs incurred by a State or political subdivision under or in connection with any program, project, activity, or account shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to reduction or sequestration under this part to the extent (and only to the extent) that other payments made by the Federal Government under or in connection with that program, project, activity, or account are subject to such reduction or sequestration; except that Federal payments made to a State as reimbursement of administrative costs incurred by such State under or in connection with the unemployment compensation programs

specified in subsection (h)(1) shall be subject to reduction or sequestration under this part notwithstanding the exemption otherwise granted to such programs under that subsection.

"(4) The previous provisions of this subsection shall not apply with respect to the following:

"(A) Comptroller of the Currency.

"(B) Federal Deposit Insurance Corporation.

"(C) Office of Thrift Supervision.

"(D) National Credit Union Administration.

"(E) National Credit Union Administration, central liquidity facility.

"(F) Federal Retirement Thrift Investment Board.

"(G) Resolution Funding Corporation.

"(H) Resolution Trust Corporation.

"SEC. 256. SPECIAL RULES.

"(a) AUTOMATIC SPENDING INCREASES.—Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

"(1) National Wool Act;

"(2) Special milk program; and

"(3) Vocational rehabilitation.

In those programs all amounts other than the automatic spending increases shall be exempt from reduction under any order issued under this part.

"(b) EFFECT OF ORDERS ON THE GUARANTEED STUDENT LOAN PROGRAM.—"(1) Any reductions which are required to be achieved from the student loan programs operated pursuant to part B of title IV of the Higher Education Act of 1965, as a consequence of an order issued pursuant to section 254, shall be achieved only from loans described in paragraphs (2) and (3) by the application of the measures described in such paragraphs.

"(2) For any loan made during the period beginning on the date that an order issued under section 254 takes effect with respect to a fiscal year and ending at the close of such fiscal year, the rate used in computing the special allowance payment pursuant to section 438(b)(2)(A)(iii) of such Act for each of the first four special allowance payments for such loan shall be adjusted by reducing such rate by the lesser of—

"(A) 0.40 percent, or

"(B) the percentage by which the rate specified in such section exceeds 3 percent.

"(3) For any loan made during the period beginning on the date that an order issued under section 254 takes effect with respect to a fiscal year and ending at the close of such fiscal year, the origination fee which is authorized to be collected pursuant to section 438(c)(2) of such Act shall be increased by 0.50 percent.

"(c) TREATMENT OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.—Any order issued by the President under section 254 shall make the reduction which is otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act) only with respect to payments and expenditures made by States in which increases in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act (for such fiscal year) for that portion of the State's payments which is attributable to the increases taking effect during that year. No State may, after the date of the enactment of this Act, make any change in the timetable for making payments under a State plan approved under part E of title IV of the Social Security Act which has the effect of changing the fiscal year in which expenditures under such part are made.

"(d) SPECIAL RULES FOR MEDICARE PROGRAM.—

"(1) MAXIMUM PERCENTAGE REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by sections 252 and 253, OMB shall determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply to payments under the health insurance programs under title XVIII of the Social Security Act for services furnished in the fiscal year after the order is issued, such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that fiscal year as determined on a 12-month basis.

"(2) TIMING OF APPLICATION OF REDUCTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished during the effective period of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

"(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the effective period of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the effective period of the order.

"(3) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under paragraph (1) for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1), of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

"(4) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

"(e) CERTAIN HEALTH PROGRAMS.—The maximum permissible reduction in new budget authority for the following programs for any fiscal year pursuant to a sequestration under sections 251, 252, or 253 is 2 percent:

"(1) Community health centers (75-0350-0-1-550).

"(2) Migrant health centers (75-0350-0-1-550).

"(3) Indian health facilities (75-0391-0-1-551).

"(4) Indian health services (75-0390-0-1-551).

"(5) Veterans' medical care (36-0160-0-1-703).

"(f) TREATMENT OF CHILD SUPPORT ENFORCEMENT PROGRAM.—Notwithstanding any change in the display of budget accounts, any order issued by the President under section 254 shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under such program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

"(g) EXTENDED UNEMPLOYMENT COMPENSATION.—(1) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under section 254 by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

"(2) A reduction by a State in accordance with paragraph (1) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1954.

"(h) COMMODITY CREDIT CORPORATION.—

"(1) IN GENERAL.—Except as modified by existing law enacted after 1985, this subsection shall govern any sequestration of the Commodity Credit Corporation.

"(2) POWERS AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION.—This title shall not restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

"(3) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS.—(A) Payments and loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 254 shall not be reduced by an order subsequently issued. Subject to subparagraph (B), after an order is issued under such section for a fiscal year, any cash payments made by the Commodity Credit Corporation—

"(i) under the terms of any one-year contract entered into in such fiscal year and after the issuance of the order; and

"(ii) out of an entitlement account,

to any person (including any producer, lender, or guarantee entity) shall be subject to reduction under the order.

"(B) Each contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under subparagraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of an order under section 254, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for the next succeeding crop of the commodity, under the authority provided in paragraph (4).

"(3) DELAYED REDUCTION IN OUTLAYS PERMISSIBLE.—Notwithstanding any other provi-

sion of this law, if an order under section 254 is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (2) may provide for reductions in outlays for the account involved to occur in the fiscal year following the fiscal year to which the order is issued. No other account, or other program, project, or activity, shall bear an increased reduction for the fiscal year to which the order applies as a result of the operation of the preceding sentence.

"(5) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS.—All reductions described in paragraph (3) which are required to be made in connection with an order issued under section 254 with respect to a fiscal year—

"(A) shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order; and

"(B) with respect to commodity price support and income protection programs, shall be made in such manner and under such procedures as will attempt to ensure that—

"(i) uncertainty as to the scope of benefits under any such program is minimized;

"(ii) any instability in market prices for agricultural commodities resulting from the reduction is minimized; and

"(iii) normal production and marketing relationships among agricultural commodities (including both contract and non-contract commodities) are not distorted.

In meeting the criterion set out in clause (iii) of subparagraph (B) of the preceding sentence, the President shall take into consideration that reductions under an order may apply to programs for two or more agricultural commodities that use the same type of production or marketing resources or that are alternative commodities among which a producer could choose in making annual production decisions.

"(6) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this joint resolution shall limit or reduce, in any way, any appropriation that provides the Commodity Credit Corporation with funds to cover the Corporation's net realized losses.

"(i) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

"(A) Budgetary resources sequestered from any account other than a trust fund account shall permanently revert to the Treasury.

"(B) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the most recently enacted appropriation Act covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

"(C) Administrative regulations or similar actions implementing a sequestration shall be made within 90 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.

"(D) Except as otherwise provided, obligations in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

"(E) If an automatic spending increase is sequestered, the increase (in the applicable index) that was disregarded as a result of that sequestration shall not be taken into account in any fiscal year.

"(F) Except as otherwise provided, sequestration in accounts for which program obligations are indefinite shall be taken in a manner to ensure, to the greatest extent possible, that program obligations in the fiscal year of a sequestration are reduced, from the level that would actually have occurred, by the applicable sequestration percentage.

"SEC. 257. THE BASELINE.

"(a) IN GENERAL.—For any budget year, the baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date.

"(b) REVENUES, FEES, AND DIRECT SPENDING.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

"(1) IN GENERAL.—Revenue laws, laws providing for fees, and laws providing or creating direct spending are assumed to operate in the manner specified in those laws for each such year and funding for spending requirements is assumed to be adequate to make all payments required by those laws.

"(2) EXCEPTIONS.—(A) No program with estimated current-year outlays greater than $50 million shall be assumed to expire in the budget year or outyears.

"(B) Agricultural price support programs administered through the Commmodity Credit Corporation are assumed to be extended under the terms, support prices, loan rates, and other rates of payment in effect the day before the expiration of the Food Security Act of 1985 or the Food and Agricultural Resources Act of 1990, as applicable.

"(C) The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session.

"(D) Excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates.

"(3) HEALTH INSURANCE TRUST FUND.—Notwithstanding any other provision of law, the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.

"(c) DISCRETIONARY APPROPRIATIONS.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions regarding all amounts other than those covered by subsection (b):

"(1) INFLATION OF CURRENT-YEAR APPROPRIATIONS.—Budgetary resources other than unobligated balances shall be at the level provided for the budget year in full-year appropriation Acts. If for any account a full-year appropriation has not yet been enacted, budgetary resources other than unobligated balances shall be at the level available in the current year, adjusted sequentially and cumulatively for expiring housing contracts as specified in paragraph (2), for social insurance administrative expenses as specified in paragraph (3), for pay annualization as specified in paragraph (4), for inflation as specified in paragraph (5), and to account for changes required by law in the level of agency payments for personnel benefits other than pay.

"(2) EXPIRING HOUSING CONTRACTS.—New budget authority to renew expiring multiyear subsidized housing contracts shall be adjusted to reflect the difference in the number of such contracts that are scheduled to expire in that fiscal year and the number expiring in the current year, with the per-contract renewal cost equal to the average current-year cost of renewal contracts.

"(3) SOCIAL INSURANCE ADMINISTRATIVE EXPENSES.—Budgetary resources for the administrative expenses of social insurance trust funds shall be adjusted by the percentage change in the beneficiary population from the current year to that fiscal year.

"(4) PAY ANNUALIZATION.—If current-year pay adjustments for Federal employees occur on a date other than October 1 of the current year, current-year new budget authority for such employees shall be adjusted by the percentage necessary to reflect the 12-month cost of those adjustments.

"(5) INFLATORS.—The inflator used in paragraph (1) to adjust budgetary resources relating to personnel shall be the percent by which the average of the Bureau of Labor Statistics Employment Cost Index (excluding sales) for that fiscal year differs from such index for the current year. The inflator used in paragraph (1) to adjust all other budgetary resources shall be the percent by which the average of the estimated gross national product fixed-weight price deflator for that fiscal year differs from the average of such estimated deflator for the current year.

"(6) CURRENT-YEAR APPROPRIATIONS.—If, for any account, a continuing appropriation is in effect for less than the entire current year, then the current-year amount shall be assumed to equal the amount that would be available if that continuing appropriation covered the entire fiscal year. If law permits the transfer of budget authority among budget accounts in the current year, the current-year level for an account shall reflect transfers accomplished by the submission of, or assumed for the current year in, the President's original budget for the budget year.

"(d) ASSET SALES AND LOAN PREPAYMENTS.—The proceeds of asset sales and loan prepayments shall be treated as means of financing the deficit.

"(e) UP-TO-DATE CONCEPTS.—In deriving the baseline for any budget year or outyear, current-year amounts shall be calculated using the concepts and definitions that are required for that budget year.

"SEC. 258. SUSPENSION IN THE EVENT OF WAR OR LOW GROWTH.

"(a) PROCEDURES IN THE EVENT OF A LOW GROWTH REPORT.—

"(1) TRIGGER.—Whenever CBO issues a low-growth report under section 254(g), the Majority Leader of each House shall introduce a joint resolution (in the form set forth in paragraph (2)) declaring that the conditions specified in section 254(g) are met and suspending the relevant provisions of this title, title VI of the Congressional Budget Act of 1974, and section 1103 of title 31, United States Code.

"(2) FORM OF JOINT RESOLUTION.—

"(A) The matter after the resolving clause in any joint resolution introduced pursuant to paragraph (1) shall be as follows: 'That the Congress declares that the conditions specified in section 254(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 are met, and the implementation of the Congressional Budget and Impoundment Control Act of 1974, chapter 11 of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are modified as described in section 258(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.'.

"(B) The title of the joint resolution shall be 'Joint resolution suspending certain pro-

visions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985."; and the joint resolution shall not contain any preamble.

"(3) COMMITTEE ACTION.—Each joint resolution introduced pursuant to paragraph (1) shall be referred to the appropriate committees of the House involved; and such Committee shall report the joint resolution to its House without amendment on or before the fifth day on which such House is in session after the date on which the joint resolution is introduced. If the Committee fails to report the joint resolution within the five-day period referred to in the preceding sentence, it shall be automatically discharged from further consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar.

"(4) CONSIDERATION OF JOINT RESOLUTION.—

"(A) A vote on final passage of a joint resolution reported to the Senate or discharged pursuant to paragraph (3) shall be taken on or before the close of the fifth calendar day of session after the date on which the joint resolution is reported or after the Committee has been discharged from further consideration of the joint resolution. If prior to the passage by one House of a joint resolution of that House, that House receives the same joint resolution from the other House, then—

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

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

When the joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a House joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a Senate joint resolution agreed to in the Senate) shall cause the joint resolution to be engrossed, certified, and transmitted to the other House of the Congress as soon as practicable.

"(B)(i) A motion in the Senate to proceed to the consideration of a joint resolution under this paragraph shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the Senate on a joint resolution under this paragraph, and all debatable motions and appeals in connection therewith, shall be limited to not more than five hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(iii) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution under this paragraph shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

"(iv) A motion in the Senate to further limit debate on a joint resolution under this paragraph is not debatable. A motion to table or to recommit a joint resolution under this paragraph is not in order.

"(C) No amendment to a joint resolution considered under this paragraph shall be in order in the Senate.

"(b) SUSPENSION OF SEQUESTRATION PROCEDURES.—Upon the enactment of a declaration of war or a joint resolution described in subsection (a)—

"(1) the subsequent issuance of any sequestration report or any sequestration order is precluded;

"(2) titles III and VI of the Congressional Budget Act of 1974 are suspended; and

"(3) section 1103 of title 31, United States Code, is suspended.

"(c) RESTORATION OF SEQUESTRATION PROCEDURES.—

"(1) In the event of a suspension of sequestration procedures due to a declaration of war, then, effective with the first fiscal year that begins in the session after the state of war is concluded by Senate ratification of the necessary treaties, the provisions of subsection (b) triggered by that declaration of war are no longer effective.

"(2) In the event of a suspension of sequestration procedures due to the enactment of a joint resolution described in subsection (a), then, effective with regard to the first fiscal year beginning at least 9 months after the enactment of that resolution, the provisions of subsection (b) triggered by that resolution are no longer effective.

"SEC. 259. MODIFICATION OF PRESIDENTIAL ORDER.

"(a) INTRODUCTION OF JOINT RESOLUTION.—At any time after the Director of OMB issues a report under section 254(d)(1) or (e)(1) for a fiscal year, but before the close of the tenth calendar day of session in that session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 254(d)(2) or (e)(2) for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

"(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

"(1) REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate under subsection (a) shall be referred to a committee of the Senate and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

"(2) CONSIDERATION IN THE SENATE.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III, IV, or VI of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The motion is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(3) DEBATE IN THE SENATE.—

"(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

"(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order, and a motion to recommit the joint resolution is not in order.

"(C)(i) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 254(d)(2) or (e)(2) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

"(ii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any amendments under paragraph (3), the vote on final passage of the joint resolution shall occur.

"(5) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(6) CONFERENCE REPORTS.—In the Senate, points of order under titles III, IV, and VI of the Congressional Budget Act of 1974 are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(7) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:

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

"(B) With respect to a joint resolution introduced under subsection (a) in the Senate—

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

"(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint reso-

lution as amended by the text of the Senate joint resolution.

"(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

"(8) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.".

PART II—RELATED AMENDMENTS

SEC. 14111. TEMPORARY AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

Title VI of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE VI—BUDGET AGREEMENT ENFORCEMENT PROVISIONS

"SEC. 601. DEFINITIONS.

"As used in this title and for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985:

"(1) MAXIMUM DEFICIT AMOUNT.—The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1991, $302,300,000,000;

"(B) with respect to fiscal year 1992, $276,800,000,000;

"(C) with respect to fiscal year 1993, $189,700,000,000;

"(D) with respect to fiscal year 1994, $58,100,000,000; and

"(E) with respect to fiscal year 1995, $18,700,000,000.

"(2) DISCRETIONARY SPENDING LIMIT.—The term 'discretionary spending limit' means—

"(A) with respect to fiscal year 1991—

"(i) for the defense category: $288,918,000,000 in new budget authority and $297,659,000,000 in outlays;

"(ii) for the international category: $20,100,000,000 in new budget authority and $18,600,000,000 in outlays; and

"(iii) for the domestic category: $182,700,000,000 in new budget authority and $198,100,000,000 in outlays;

"(B) with respect to fiscal year 1992—

"(i) for the defense category: $291,643,000,000 in new budget authority and $295,744,000,000 in outlays;

"(ii) for the international category: $20,500,000,000 in new budget authority and $19,100,000,000 in outlays; and

"(iii) for the domestic category: $191,300,000,000 in new budget authority and $210,100,000,000 in outlays;

"(C) with respect to fiscal year 1993—

"(i) for the defense category: $291,785,000,000 in new budget authority and $292,686,000,000 in outlays;

"(ii) for the international category: $21,400,000,000 in new budget authority and $19,600,000,000 in outlays; and

"(iii) for the domestic category: $198,300,000,000 in new budget authority and $221,700,000,000 in outlays;

"(D) with respect to fiscal year 1994, for the discretionary category: $510,800,000,000 in new budget authority and $534,800,000,000 in outlays; and

"(E) with respect to fiscal year 1995, for the discretionary category: $517,700,000,000 in new budget authority and $540,800,000,000 in outlays.

"SEC. 602. 5-YEAR BUDGET RESOLUTIONS.

"In the case of any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995, that resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of the calendar year in which it is reported and for each of the 4 succeeding fiscal years.

"SEC. 603. COMMITTEE ALLOCATIONS AND ENFORCEMENT.

" (a) COMMITTEE SPENDING ALLOCATIONS.—

"(1) HOUSE OF REPRESENTATIVES.—

"(A) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years) of—

"(i) total new budget authority,

"(ii) total entitlement authority, and

"(iii) total outlays;

among each committee of the House of Representatives that has jurisdiction over legislation providing or creating such amounts.

"(B) NO DOUBLE COUNTING.—Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

"(C) FURTHER DIVISION OF AMOUNTS.—The amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

"(2) SENATE ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of—

"(A) total new budget authority, and

"(B) total outlays;

among each committee of the Senate that has jurisdiction over legislation providing or creating such amounts.

"(3) AMOUNTS NOT ALLOCATED.—If a committee receives no allocation of new budget authority, entitlement authority, or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement authority, or outlays.

"(b) SUBALLOCATIONS BY THE APPROPRIATIONS COMMITTEES.—

"(1) INITIAL SUBALLOCATIONS.—As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a)(1)(C) among its subcommittees.

"(2) FILING.—Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this subsection.

"(c) Application of Section 302(f) to This Section.—In fiscal years through 1995, reference in section 302(f) to the appropriate allocation made pursuant to section 302(b) for a fiscal year shall, for purposes of this section, be deemed to be a reference to any allocation made under subsection (a) or any suballocation made under subsection (b), as applicable, for the budget year or for the total of all fiscal years made by the joint explanatory statement accompanying the applicable concurrent resolution on the budget.

"(d) APPLICATION OF SUBSECTIONS (a) AND (b) TO FISCAL YEARS 1992 TO 1995.—In the case of concurrent resolutions on the budget for fiscal years 1992 through 1995, allocations shall be made under subsection (a) instead of section 302(a) and shall be made under subsection (b) instead of section 302(b). For those fiscal years, all references in section 302(c), (d), (e), and (f) to section 302(a) shall be deemed to be to subsection (a) (including revisions made under section 604) and all such references to section 302(b) shall be deemed to be to subsection (b) (including revisions made under section 604).".

"(e) PAY-AS-YOU-GO EXCEPTION.—Section 302(f)(1) shall not apply to any bill, resolution, or conference report if—

"(A) the enactment of such bill or resolution as reported;

"(B) the adoption and enactment of such amendment; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report,

would not increase the deficit set forth in the most recently agreed to concurrent resolution on the budget for any fiscal year covered by that concurrent resolution.".

"SEC. 604. CONSIDERATION OF LEGISLATION BEFORE ADOPTION OF BUDGET RESOLUTION FOR THAT FISCAL YEAR.

"(a) ADJUSTING SECTION 603 ALLOCATION OF DISCRETIONARY SPENDING.—If a concurrent resolution on the budget is not adopted by April 15, the chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall submit to their respective Houses, as soon as practicable, a revised section 603(a) allocation to the Committee on Appropriations of that House consistent with the discretionary spending limits contained in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.

"(b) As soon as practicable after a revised section 603(a) allocation is submitted, the Committee on Appropriations of each House shall make revised suballocations and promptly report those revised suballocations to its House.

"SEC. 605. RECONCILIATION DIRECTIVES REGARDING PAY-AS-YOU-GO REQUIREMENTS.

"(a) INSTRUCTIONS TO EFFECTUATE PAY-AS-YOU-GO.—If legislation providing for a net reduction in revenues in any fiscal year (that, within the same measure, is not fully offset in that fiscal year by reductions in direct spending) is enacted, the Committee on the Budget of the House of Representatives or the Senate may report, within 15 legislative days during a Congress, a pay-as-you-go reconciliation directive in the form of a concurrent resolution—

"(1) specifying the total amount by which revenues sufficient to eliminate the net deficit increase resulting from that legislation in each fiscal year are to be changed; and

"(2) directing that the committees having jurisdiction determine and recommend changes in the revenue law, bills, and resolutions to accomplish a change of such total amount.

"(b) CONSIDERATION OF PAY-AS-YOU-GO RECONCILIATION DIRECTIVE.—In the Senate, section 305(b) shall apply to the reconciliation directive described in subsection (a) in the same manner as if it were a concurrent resolution on the budget.

"(c) CONSIDERATION OF PAY-AS-YOU-GO RECONCILIATION LEGISLATION.—In the House of Representatives and in the Senate, subsections (b) through (e) and (g) of section 310 shall apply in the same manner as if the reconciliation directive described in subsec-

tion (a) were a concurrent resolution on the budget.

SEC. 606. APPLICATION OF SECTION 311.

"In the application of section 311(a) to any bill, resolution, amendment, or conference report, reference in section 311 to the appropriate level of total budget authority or total budget outlays or appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate level for that year and the 4 succeeding years.

"SEC. 607. BUDGET RESOLUTIONS MUST CONFORM TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

"It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301 that is inconsistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that fiscal year.".

"SEC. 608. EFFECTIVE DATES.

This title shall take effect upon its date of enactment and shall apply to fiscal years 1991 to 1995.".

SEC. 14112. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.—

(1) TABLE OF CONTENTS.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended to reflect the new section numbers and headings created by this title.

(2) SECTION 3.—Section 3 of such Act is amended—

(A) by striking paragraphs (6) through (10) and by inserting the following:

"(6) The term 'deficit' means, with respect to a fiscal year, the amount by which outlays exceeds receipts during that year.

"(7) The term 'surplus' means, with respect to a fiscal year, the amount by which receipts exceeds outlays during that year.

(3) SECTION 202.—Section 202(a)(1) and the second sentence of 202(f)(1) of such Act are amended by striking "budget authority" and inserting "new budget authority".

(4) SECTION 300.—Section 300 of such Act is amended by striking "First Monday after January 3" and by inserting "First Monday in February".

(5) SECTION 304.—Section 304 of such Act is amended by striking subsection (b) and by striking "(c)" and inserting "(b)".

(6) SECTION 301(i).—Section 301(i) of such Act is repealed.

(7) SECTION 311(a).—Section 311(a) of such Act is amended by striking "or, in the Senate" and all that follows thereafter through "paragraph (2) of such subsection".

(8) SECTION 904.—Section 904 of such Act is amended by striking "and" after "III", by inserting ", V, and VI (except section 601)" after "IV", and by striking "606,".

(b) CONFORMING AMENDMENT TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Subsection (b) of section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(b) EXPIRATION.—Part C of this title, section 271(b) of this Act. and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire September 30, 1995.".

(c) CONFORMING AMENDMENTS TO SECTION 1105 OF TITLE 31, UNITED STATES CODE.—

(1) SECTION 1105(a).—Section 1105(a) of title 31, United States Code, is amended by striking "first Monday after January 3" and by inserting "first Monday in February"

(2) SECTION 1105(f).—Section 1105(f) of title 31, United States Code, is amended to read as follows:

"(f) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that fiscal year.".

(d) CONFORMING AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES.—

(1) CROSS-REFERENCE.—Clause 1(e)(2) of rule X of the Rules of the House of Representatives is amended by striking "(a)(4)".

(2) CROSS-REFERENCE.—Clause 1(e)(2) of rule X of the House of Representatives is amended by striking "Act, and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985" and inserting "Act".

(3) ALLOCATIONS.—Clause 4(h) of rule X of the House of Representatives is amended by inserting "or section 603 (in the case of fiscal years 1991 through 1995)" after "section 302".

(4) MULTIYEAR REVENUE ESTIMATES.—Clause 7(a)(1) of rule XIII of the House of Representatives is amended by striking ", except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period".

(e) CONFORMING AMENDMENT TO THE STANDING RULES OF THE SENATE.—Paragraph 1(e)(1) of rule XXV of the Standing Rules of the Senate is amended by striking "(a)(4)".

Subtitle B—Permanent Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 14201. CREDIT ACCOUNTING.

Title V of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE V—CREDIT ACCOUNTING

"SEC. 501. COST OF LOANS.

"As used in this title, the term 'cost' or 'cost of loans' means the cost to the Government of any loan (that is, any direct loan or loan guarantee), including the cost of, and receipts from, insurance purchased by the Government, except indirect costs such as administrative costs or any effect on receipts, and shall be calculated as follows:

"(1) DIRECT LOANS.—For a direct loan to the public made by the Government, the difference between the face value of the loan and the net present value of—

"(A) the repayments of principal; and

"(B) payments of interest and other payments;

to the Government by the borrower over the life of the loan, after adjusting for estimated defaults, prepayments, fees, penalties, and any other recoveries.

"(2) LOAN GUARANTEES.—For a loan made by a non-Federal borrower that is guaranteed as to principal or interest, in whole or in part, by the Government, the net present value of (A) estimated payments by the Government to cover defaults, interest subsidies, or other costs, and (B) receipts (such as origination and other fees, penalties, and other recoveries) by the Government.

"(3) ACTIONS THAT ALTER COSTS.—Any Government action that alters estimated loan costs (except modifications within the terms of a loan contract) shall be accounted as increasing or decreasing, as the case may be, the cost to the Government of such loans.

"(4) DISCOUNT RATE.—The estimated average interest rate on new issues of Treasury securities of similar maturity to the loans being estimated shall be used as the discount to present value.

"SEC. 502. BUDGETARY ACCOUNTING.

"(a) NEW BUDGET AUTHORITY.—The authority to incur new direct loan obligations, make new loan guarantee commitments, or directly or indirectly alter the costs of outstanding loans is new budget authority in an amount equal to the cost (as defined in section 501), in the fiscal year in which definite authority becomes available or in which indefinite authority is used.

"(b) OUTLAYS.—Outlays resulting from, and equal in amount to, the amount of new budget authority referred to in subsection (a) that is obligated shall be recorded in the fiscal year in which a loan is disbursed or its cost altered.

"(c) RESIDUAL CASH FLOW.—

"(1) IN GENERAL.—All flows of cash resulting from Federal loan contracts other than the outlays recorded pursuant to subsection (b) shall be a means of financing the deficit.

"(2) REESTIMATES.—Whenever the estimate of the cost of loan obligations or commitments already made for a given program cohort differs from the estimate used when the loans were made, that reestimate shall immediately be reflected in the budget as a change in program costs and as a change in net interest.

"(3) IMPLEMENTATION.—In order to effectuate the accounting required by the previous provisions of this section, (A) the President is authorized to establish such nonbudgetary accounts as may be appropriate, and (B) the Secretary of the Treasury shall borrow from, receive from, lend to, or pay to such accounts such amounts as may be appropriate.

"SEC. 503. CONGRESSIONAL CONTROL OF LOAN COSTS.

"(a) APPROPRIATION REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made after September 30, 1991, only to the extent that appropriations of new budget authority to cover their costs are made, or authority is otherwise provided. in appropriation Acts enacted after January 1, 1991.

"(b) EXEMPTION FOR MANDATORY PROGAMS.—Subsection (a) shall not apply to any loan program that constitutes a spending requirement, and all existing programs funded through the Commodity Credit Corporation.

"SEC. 504. EXECUTIVE BRANCH COST ESTIMATES.

"(a) IN GENERAL.—For the executive branch, all estimates required by this title shall be made by the Director of the Office of Management and Budget after consultation with the agencies that administer loan programs (or, if such authority is delegated, by those agencies), and shall be based upon written guidelines, regulations, or criteria (consistent with the definitions in this title) established by the Director after consultation with Secretary of the Treasury and the Director of the Congressional Budget Office.

"(b) IMPROVING COST ESTIMATES.—The Office of Management and Budget and the Congressional Budget Office shall work together to develop accurate data on the historical performance of loan programs. They shall annually review loan portfolios to improve estimates of loan costs.

"(c) ACCESS TO DATA.—The Office of Management and Budget, the Treasury, and the Congressional Budget Office shall have access to all agency data that may facilitate the development or improvement of loan cost estimates.

"SEC. 505. BUDGET PRESENTATION OF COSTS.

"(a) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a loan program shall be displayed as distinct and

separately identified subaccounts within the same budget account as the program's loan cost, but appropriation Acts may transfer funding for those administrative costs to other accounts.

"(b) LOAN COSTS BEFORE FISCAL YEAR 1992.—The Office of Management and Budget shall, to the extent possible, make summary estimates of loan costs incurred in years before fiscal year 1992 and shall make such information available to supplement or adjust (as appropriate) historical data for such years.

"SEC. 506. EFFECTIVE DATES.

"(a) PRESIDENT'S BUDGET.—This title shall apply to budget estimates for loans to be obligated in fiscal year 1992 and thereafter presented in the budgets submitted by the President under section 1105(a) of title 31, United States Code, after the enactment of this title.

"(b) CONGRESSIONAL BUDGET.—This title shall apply to budget estimates for loans to be obligated in fiscal year 1992 and thereafter contained in concurrent resolutions on the budget for fiscal years 1992 and thereafter.

"(c) LOANS OBLIGATED BEFORE FISCAL YEAR 1992.—Net costs of loans obligated before fiscal year 1992 shall be shown in the budget on a cash basis. This subsection shall be deemed to provide authority to make any payments required to be made on such loan contracts.

"SEC. 507. STUDY OF FEDERAL INSURANCE ACCOUNTING.

"The Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each study whether the accounting for Federal deposit insurance programs should be on a cash basis, on the same basis as loan guarantees, or on some other basis. Each Director shall report findings and recommendations to the President and the Congress by August 31, 1991.".

Subtitle C—Social Security

SEC. 14301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

Notwithstanding any other provision of law, the receipts (excluding interest on obligations described in section 201(d) of the Social Security Act) and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 14302. PROTECTION OF OASDI TRUST FUNDS.

(a) IN GENERAL.—(1) It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or any amendment thereto or conference report thereon, if—

(A) upon enactment—

(i) such legislation under consideration would provide for a net increase in OASDI benefits of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, or

(ii) the net increase in OASDI benefits (for the 5-year period consisting of the fiscal year in which such legislation under consideration would be effective and the next 4 fiscal years) provided by such legislation under consideration, together with the 5-year net increases in OASDI benefits resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment), exceeds $250,000,000,

and such legislation under consideration does not provide at least a net increase, for the same period referred to in clause (i) or (ii), in OASDI taxes of the amount by which the net increase in such benefits exceeds the amount specified in such clause; or

(B) upon enactment—

(i) such legislation under consideration would provide for a net decrease in OASDI taxes of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, or

(ii) the net decrease in OASDI taxes (for the 5-year period consisting of the fiscal year in which such legislation under consideration would be effective and the next 4 fiscal years) provided by such legislation under consideration, together with the 5-year net decrease in OASDI taxes resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment), exceeds $250,000,000,

and such legislation under consideration does not provide at least a net decrease, for the same period referred to in clause (i) or (ii), in OASDI benefits of the amount by which the net decrease in such taxes exceeds the amount specified in such clause.

(2) In applying subparagraph (B) of paragraph (1), any provision of any bill or resolution, or any amendment thereto, or conference report thereon, the effect of which is to provide for a net decrease for any period in taxes described in paragraph (3)(B)(i) shall be disregarded if such bill, resolution, amendment, or conference report also includes a provision the effect of which is to provide for a net increase of at least an equivalent amount for such period in medicare taxes.

(3) For purposes of this subsection:

(A) The term "OASDI benefits" means the benefits under the old-age, survivors, and disability insurance programs under title II of the Social Security Act.

(B) The term "OASDI taxes" means—

(i) the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986, and

(ii) the taxes imposed under chapter 1 of such Code (to the extent attributable to section 86 of such Code).

(C) The term "medicare taxes" means the taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1986.

(D) The term "previous legislation" shall not include legislation enacted before fiscal year 1991.

(E) No provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of OASDI taxes referred to in subparagraph (B)(ii) unless such provision changes the income tax treatment of OASDI benefits.

(b) EXERCISE OF RULEMAKING POWER OF THE HOUSE OF REPRESENTATIVES AND THE SENATE.—Subsection (a) is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as a part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

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

SEC. 14303. REPORT TO THE CONGRESS BY THE BOARD OF TRUSTEES OF THE OASDI TRUST FUNDS REGARDING THE ACTUARIAL BALANCE OF THE TRUST FUNDS.

Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by inserting after the first sentence following clause (5) the following new sentence: "Such statement shall include a finding by the Board of Trustees as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, individually and collectively, are in close actuarial balance (as defined by the Board of Trustees).".

SEC. 14304. EFFECTIVE DATE.

Sections 14301 and 14302, and any amendments made by such sections, shall apply with respect to fiscal years beginning on or after October 1, 1991. Section 14303 shall be effective for annual reports of the Board of Trustees issued in or after calendar year 1991.

Subtitle D—Treatment of Fiscal Year 1991 Sequestration

SEC. 14401. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act, the orders issued by the President on August 27, 1990, and October 15, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby rescinded.

(b) AMOUNTS RESTORED.—Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequestrable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

Subtitle E—Government-sponsored Enterprises

SEC. 14501. FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES.

(a) DEFINITION.—For purposes of this section, the terms "Government-sponsored enterprise" and "GSEs" mean the Farm Credit System (including the Farm Credit Banks, Banks for Cooperatives, Federal Agricultural Mortgage Corporation, and Farm Credit Insurance Corporation), the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Student Loan Marketing Association.

(b) TREASURY DEPARTMENT STUDY AND PROPOSED LEGISLATION.—

(1) The Department of the Treasury shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs and recommended legislation.

(2) The study shall include an objective assessment of the financial soundness of GSEs, the adequacy of the existing regulatory structure for GSEs, and the financial exposure of the Federal Government posed by GSEs.

(c) CONGRESSIONAL BUDGET OFFICE STUDY.—

(1) The Congressional Budget Office shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs.

(2) The study shall include an analysis of the financial risks each GSE assumes, how Congress may improve its understanding of those risks, the supervision and regulation of GSEs' risk management, and the financial exposure of the Federal Government posed by GSEs. The study shall also include

an analysis of alternative models for oversight of GSEs and of the costs and benefits of each alternative model to the Government and to the markets and beneficiaries served by GSEs.

(d) ACCESS TO RELEVANT INFORMATION.—

(1) For the studies required by this section, each GSE shall provide full and prompt access to the Secretary of the Treasury and the Director of the Congressional Budget Office to its books and records and other information requested by the Secretary of the Treasury or the Director of the Congressional Budget Office.

(2) In preparing the studies required by this section, the Secretary of the Treasury and the Director of the Congressional Budget Office may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of a GSE.

(e) CONFIDENTIALITY OF RELEVANT INFORMATION.—

(1) The Secretary of the Treasury and the Director of the Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available by a GSE under this section in a manner consistent with the level of confidentiality established for the material by the GSE involved.

(2) The Department of the Treasury and the Congressional Budget Office shall be exempt from section 552 of title 5, United States Code, for any book, record, or information made available under subsection (d) and determined by the Secretary of the Treasury or the Director of the Congressional Budget Office, as appropriate, to be confidential under this subsection.

(3) Any officer or employee of the Department of the Treasury or the Congressional Budget Office shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(A) by virtue of his or her employment or official position, he or she has possession of or access to any book, record, or information made available under and determined to be confidential under this section; and

(B) he or she discloses the material in any manner other than—

(i) to an officer or employee of the Department of the Treasury or the Congressional Budget Office; or

(ii) pursuant to the exception set forth in such section 1906.

(f) REQUIREMENT TO REPORT LEGISLATION.—The committees of jurisdiction in the House and Senate shall prepare and report to the House and Senate, respectively, no later than September 15, 1991, legislation to ensure the financial soundness of GSEs and to minimize the possibility that a GSE might require future assistance from the Government.

The CHAIRMAN. Only the following two amendments en bloc are in order to the bill:

The amendment en bloc printed in part 2 of House Report 101-882, if offered by Representative ROSTENKOWSKI, or his designee. Said amendment shall be considered as read, shall not be subject to amendment, shall be indivisible, and is debatable for up to 1 hour, equally divided and controlled by the proponent and a Member opposed.

An amendment en bloc offered by Representative PANETTA, or his designee. Said amendment shall be considered as read, shall not be subject to amendment, shall be indivisible, and is debatable for up to 30 minutes, equally divided and controlled by the proponent and a Member opposed.

AMENDMENTS EN BLOC OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. ROSTENKOWSKI: Amend subtitle D of title XII to read as follows:

Subtitle D—Provisions Relating to Medicare Part B Premium and Deductible

SEC. 12301. PART B PREMIUM.

Section 1839(e)(1) of the Social Security Act (42 U.S.C. 1395r(e)(1)) is amended—

(1) by inserting "(A)" after "(e)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) Notwithstanding the provisions of subsection (a), the monthly premium for each individual enrolled under this part for each month in—

"(i) 1991 shall be $29.90.

"(ii) 1992 shall be $31.70,

"(iii) 1993 shall be $36.50,

"(iv) 1994 shall be $41.20, and

"(v) 1995 shall be $46.20.".

SEC. 12302. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 13951) is amended by inserting after "$75" the following: "for calendar years before 1991 and $100 for 1991 and subsequent years".

Strike title XIII and insert the following:

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

SEC. 13001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—Except as otherwise expressly provided in this title, no amendment made by this title shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

SEC. 13101. ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $67,200.	$4,867.50, plus 28% of the excess over $32,450.
Over $78,400	$17,733.50, plus 33% of the excess over $78,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200.	$3,907.50, plus 28% of the excess over $26,500.
Over $67,200	$15,429.50, plus 33% of the excess over $67,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,050.	$2,917.50, plus 28% of the excess over $19,450.
Over $47,050	$10,645.50, plus 33% of the excess over $47,050.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200.	$2,433.75, plus 28% of the excess over $16,225.
Over $39,200	$8,866.75, plus 33% of the excess over $39,200.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $5,450	15% of taxable income.
Over $5,450 but not over $14,150.	$817.50, plus 28% of the excess over $5,450.
Over $14,150	$3,253.50, plus 33% of the excess over $14,150.

(b) REPEAL OF PHASEOUT.—

(1) IN GENERAL.—Section 1 is amended by striking subsection (g) (relating to phaseout of 15-percent rate and personal exemptions).

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1(f)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(4),".

(c) 28 PERCENT MAXIMUM CAPITAL GAINS RATE.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(j) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1).

"(2) COORDINATION WITH SECTION 1202 DEDUCTION.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced by the sum of—

"(A) the amount allowable as a deduction under section 1202(a)(1), plus

"(B) the amount of the qualified gain (as defined in section 1202(c)) for the taxable year to the extent taken into account under section 1202(c)(1) for the taxable year."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (f) of section 1 is amended—

(i) by striking "1988" in paragraph (1) and inserting "1990", and

(ii) by striking "1987" in paragraph (3)(B) and inserting "1989".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1987" and inserting "1989".

(C) Subparagraph (C) of section 41(e)(5) is amended—

(i) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end of clause (i),

(ii) by striking "1987" in clause (ii) and inserting "1989", and

(iii) by adding at the end of clause (ii) the following new sentence: "Such substitution shall be in lieu of the substitution under clause (i).".

(D) Subparagraph (B) of section 63(c)(4) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(E) Clause (ii) of section 135(b)(2)(B) is amended by striking ", determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof".

(F) Subparagraph (B) of section 151(d)(3) is amended by striking "1987" and inserting "1989".

(G) Clause (ii) of section 513(h)(2)(C) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(2) Section 1 is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (g) and (h), respectively.

(3) Subsection (j) of section 59 is amended—

(A) by striking "section 1(i)" each place it appears and inserting "section 1(g)", and

(B) by striking "section 1(i)(3)(B)" in paragraph (2)(C) and inserting "section 1(g)(3)(B)".

(4) Paragraph (4) of section 691(c) is amended by striking "1(j)" and inserting "1(h)".

(5)(A) Clause (i) of section 904(b)(3)(D) is amended by striking "subsection (j)" and inserting "subsection (h)".

(B) Subclause (I) of section 904(b)(3)(E)(iii) is amended by striking "section 1(j)" and inserting "section 1(h)".

(6) Clause (iv) of section 6103(e)(1)(A) is amended by striking "section 1(j)" and inserting "section 1(g)".

(7)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking "1(j)" and inserting "1(h)".

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking "1(j)" and inserting "1(h)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13102. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "21 percent" and inserting "25 percent".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 13103. SURTAX ON INDIVIDUALS WITH INCOME OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax im-

posed under section 1 (determined without rgard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31 1990.

SEC. 13104. TAXES ON LUXURY ITEMS.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"Subchapater A—Certain Luxury Items

"Part I. Imposition of taxes.
"Part II. Rules of general applicability.

"PART I. IMPOSITION OF TAXES

"Supbart A. Passenger vehicles, boats, and aircraft.
"Subpart B. Jewelery and furs.

"Subpart A—Passenger Vehicles, Boats, and Aircraft

"Sec. 4001. Passenger vehicles.
"Sec. 4002. Boats.
"Sec. 4003. Aircraft.
"Sec. 4004. Rules applicable to subpart A.

"SEC. 4001. PASSENGER VEHICLES.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of subsection (a), term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"SEC. 4002. BOATS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any boat a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any boat for use by the purchaser exclusively in the active conduct of—

"(1) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(2) any other trade or business unless the boat is to be used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation.

"SEC. 4003. AIRCRAFT.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any aircraft a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) AIRCRAFT.—For purposes of this section, the term 'aircraft' means any aircraft—

"(1) which is propelled by a motor, and

"(2) which is capable of carrying 1 or more individuals.

"(c) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any aircraft for use by the purchaser exclusively—

"(1) in the aerial application of fertilizers or other substances,

"(2) in the case of a helicopter, in a use described in paragraph (1) or (2) of section 4261(e),

"(3) in a trade or business of providing flight training, or

"(4) in a trade or business of transporting persons or property for compensation or hire.

"SEC. 4004. RULES APPLICABLE TO SUBPART A.

"(a) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed under this subpart on the sale of any article—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(b) SEPARATE PURCHASE OF ARTICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any article taxable under this subpart (determined without regard to price) installs (or causes to be installed) any part or accessory on such article, and

"(B) such installation is not later than the date 6 months after the date the article was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle, boat, or aircraft was sold, over

"(B) $100,000 ($30,000 in the case of a passenger vehicle).

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory, or

"(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the taxable article does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(c) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF ARTICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any article by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such article is resold by the purchaser or such purchaser makes a substantial non-exempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of an article if the 1st retail sale of such article is not taxable under this subchapter by reason of such use.

"Subpart B—Jewelry and Furs

"Sec. 4006. Jewelry.
"Sec. 4007. Furs.

"SEC. 4006. JEWELRY.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any jewelry a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $5,000.

"(b) JEWELRY.—For purposes of subsection (a), the term 'jewelry' means all articles commonly or commercially known as jewelry, whether real or imitation, including watches.

"(c) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces jewelry from material furnished directly or indirectly by a customer, and

"(2) the jewelry so manufactured is for the use of, and not for resale by, such customer,

the delivery of such jewelry to such customer shall be treated as the 1st retail sale of such jewelry for a price equal to its fair market value at the time of such delivery.

"SEC. 4007. FURS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of the following articles a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $10,000:

"(1) Articles made of fur on the hide or pelt.

"(2) Articles of which such fur is a major component.

"(b) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person who in the course of a trade or business produces an article of the kind described in subsection (a) from fur on the hide or pelt furnished, directly or indirectly, by a customer, and

"(2) the article is for the use of, and not for resale by, such customer,

the delivery of such article to such customer shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such delivery.

"PART II—RULES OF GENERAL APPLICABILITY

"Sec. 4011. Definitions and special rules.

"SEC. 4011. DEFINITIONS AND SPECIAL RULES.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses an article taxable under this subchapter (including any use after importation) before the 1st retail sale of such article, then such person shall be liable for tax under this subchapter in the same manner as if such article were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under this subchapter to be manufactured or produced by him.

"(3) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by any person shall be considered a sale of such article at retail.

"(2) SPECIAL RULES FOR CERTAIN LEASES OF PASSENGER VEHICLES, BOATS, AND AIRCRAFT.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle, boat, or aircraft to a person engaged in a leasing or rental trade or business of the article involved for leasing by such person in a qualified lease shall not be treated as the 1st retail sale of such article.

"(B) QUALIFIED LEASE.—For purposes of subparagraph (A), the term 'qualified lease' means—

"(i) any lease in the case of a boat or an aircraft, and

"(ii) any long-term lease (as defined in section 4052) in the case of any passenger vehicle.

"(C) SPECIAL RULES.—In the case of a qualified lease of an article which is treated as the 1st retail sale of such article—

"(i) DETERMINATION OF PRICE.—The tax under this chapter shall be computed on the lowest price for which the article is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a qualified lease if the lessee's use of the article under such lease is an exempt use (as defined in section 4004(c)) of such article.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee,

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

Subparagraph (B)(iii) shall not apply for purposes of the taxes imposed by sections 4006 and 4007.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"(e) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any article taxable under this subchapter shall be treated as part of the article.

"(f) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2), and of section 4216(d), shall apply for purposes of this subchapter."

(b) EXEMPTION FOR EXPORTS.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "section 4051" and inserting "subchapter A or C of chapter 31".

(2) Subsection (a) of section 4221 is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply."

(c) EXEMPTION FOR SALES TO THE UNITED STATES.—Section 4293 is amended by inserting "subchapter A of chapter 31," before "section 4041".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "section 4053(a)(6)" and inserting "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)".

(2) Paragraph (1) of section 4221(d) is amended by striking "the tax imposed by section 4051" and inserting "taxes imposed by subchapter A or C of chapter 31".

(3) Subsection (d) of section 4222 is amended by striking "sections 4053(a)(6)" and inserting "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)".

(e) CLERICAL AMENDMENT.—The table of subchapters for chapter 31 is amended to read as follows:

"Subchapter A. Certain luxury items.

"Subchapter B. Special fuels.

"Subchapter C. Heavy trucks and trailers."

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

SEC. 13165. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) is amended—

(A) by striking "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears and inserting "applicable contribution base (as determined under subsection (x))", and

(B) by striking "such contribution and benefit base" and inserting "such applicable contribution base".

(2) APPLICABLE CONTRIBUTION BASE.—Section 3121 is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the taxes imposed by sections 3101(a) and 3111(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), the applicable contribution base is—

"(A) $100,000 for calendar year 1991, and

"(B) for any calendar year after 1991, $100,000 adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230 of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar

year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

(2) Sections 3122 and 3125 are each amended by striking "contribution and benefit base limitation" each place it appears and inserting "applicable contribution base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1991 and later calendar years.

PART II—DELAY OF INDEXING OF INCOME TAX BRACKETS AND PERSONAL EXEMPTIONS

SEC. 13111. DELAY OF INDEXING OF INCOME TAX BRACKETS AND PERSONAL EXEMPTIONS.

(a) INCOME TAX BRACKETS.—Subsection (f) of section 1 (as amended by section 13101) is amended—

(1) by striking "1990" in paragraph (1) and inserting "1991", and

(2) by striking "1989" in paragraph (3)(B) and inserting "1990".

(b) AMOUNT OF PERSONAL EXEMPTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 151(d) (relating to allowance of deductions for personal exemptions) is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'exemption amount' means $2,050.".

(2) INDEXING AFTER 1991.—Paragraph (3) of section 151(d) is amended—

(A) by striking "paragraph (1)(C)" and inserting "paragraph (1)",

(B) by striking "after 1989" each place it appears and inserting "after 1991", and

(C) by striking ", by substituting" in subparagraph (B) and all that follows and inserting a period.

(c) CONFORMING AMENDMENTS.—

(1) Each of the following provisions (as amended by section 13101) is amended by striking "1989" and inserting "1990":

(A) Section 32(i)(1)(B).

(B) Clauses (i) and (ii) of section 41(e)(5)(C).

(C) Section 63(c)(4)(B).

(D) Section 513(h)(2)(C)(ii).

(2) Clause (ii) of section 135(b)(2)(B) (as so amended) is amended by inserting before the period at the end thereof the following: "determined by substituting 'calendar year 1989' for 'calendar year 1990' in subparagraph (B) thereof".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

PART III—PROVISIONS RELATED TO EARNED INCOME TAX CREDIT

SEC. 13121. INCREASE IN EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—

(1) Subsection (a) of section 32 is amended by striking "14 percent" and inserting "the credit percentage".

(2) Paragraph (2) of section 32(b) is amended by striking "10 percent" and inserting "the phaseout percentage".

(3) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(3) CREDIT PERCENTAGE AND PHASEOUT PERCENTAGE.—The credit percentage and the phaseout percentage for any taxable year shall be determined in accordance with the following table:

"If the taxable year begins during:	The credit percentage is:	The phaseout percentage is:
1991	18.5	13.0
1992 or 1993	19.0	13.5
1994 or thereafter.	20.0	14.0."

(b) CONFORMING AMENDMENT.—Subparagraphs (B)(i) and (C)(i) of section 3507(c)(2) are each amended by striking "14 percent" and inserting "the credit percentage".

(c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 13122. SIMPLIFICATION OF ELIGIBILITY FOR EARNED INCOME TAX CREDIT.

(a) ELIGIBILITY.—Section 32(c)(1) (defining eligible individual) is amended to read as follows:

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.

"(B) QUALIFYING CHILD INELIGIBLE.—If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

"(C) 2 OR MORE ELIGIBLE INDIVIDUALS.—If 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

"(D) EXCEPTION FOR INDIVIDUAL CLAIMING BENEFITS UNDER SECTION 911.—The term 'eligible individual' does not include any individual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year.".

(b) QUALIFYING CHILD DEFINED.—Section 32(c) is amended by adding at the end thereof the following new paragraph:

"(4) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(i) who bears a relationship to the taxpayer described in subparagraph (B),

"(ii) except as provided in subparagraph (B)(iii), who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(iii) who meets the age requirements of subparagraph (C), and

"(iv) with respect to whom the taxpayer meets the identification requirements of subparagraph (D).

"(B) RELATIONSHIP TEST.—

"(i) IN GENERAL.—An individual bears a relationship to the taxpayer described in this subparagraph if such individual is—

"(I) a son or daughter of the taxpayer, or a descendant of either,

"(II) a stepson or stepdaughter of the taxpayer, or

"(III) an eligible foster child of the taxpayer.

"(ii) MARRIED CHILDREN.—Clause (i) shall not apply to any individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 of such taxable year with respect to such individual (or would be so entitled but for paragraph (2) or (4) of section 152(e)).

"(iii) ELIGIBLE FOSTER CHILD.—For purposes of clause (i)(III), the term 'eligible foster child' means an individual not described in clause (i) (I) or (II) who—

"(I) the taxpayer cares for as the taxpayer's own child, and

"(II) has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year.

"(iv) ADOPTION.—For purposes of this subparagraph, a child who is legally adopted, or who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child by blood.

"(C) AGE REQUIREMENTS.—An individual meets the requirements of this subparagraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins,

"(ii) is a student (as defined in section 151(c)(4)) who has not attained the age of 24 as of the close of such calendar year, or

"(iii) is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year.

"(D) IDENTIFICATION REQUIREMENTS.—The requirements of this subparagraph are met if the taxpayer includes the following information on the return of tax for such taxable year (or provides such information to the Secretary in such other manner as the Secretary may prescribe):

"(i) the name and age of such individual, and

"(ii) if the individual has attained the age of 1 before the close of the taxpayer's taxable year, the taxpayer identification number of such individual.

"(E) ABODE MUST BE IN THE UNITED STATES.—The requirements of subparagraphs (A)(ii) and (B)(iii)(II) shall be met only if the principal place of abode is in the United States."

(c) SEPARATE SCHEDULE REQUIRED.—The Secretary of the Treasury or his delegate shall prescribe a separate schedule to be included as part of the return of tax of any individual claiming a credit under section 32 of the Internal Revenue Code of 1986 on such return.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

PART IV—CAPITAL GAINS PROVISIONS

Subpart A—Reduction in Capital Gains Tax for Individuals

SEC. 13131. REDUCTION IN CAPITAL GAINS TAX FOR INDIVIDUALS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the sum of—

"(1) the annual capital gains deduction (if any) determined under subsection (b), plus

"(2) the lifetime capital gains deduction for nontradable property (if any) determined under subsection (c).

"(b) ANNUAL CAPITAL GAINS DEDUCTION.—

"(1) IN GENERAL.—For purposes of subsection (a), the annual capital gains deduction determined under this subsection is the lesser of—

"(A) the net captial gain for the taxable year, or

"(B) $1,000.

"(2) PHASE-OUT FOR INCOMES BETWEEN $100,000 AND $150,000.—The $1,000 amount specified in subparagraph (B) of paragraph (1) shall be reduced by an amount which bears the same ratio to $1,000 as—

"(A) the adjusted gross income of the taxpayer for the taxable year in excess of $100,000, bears to

"(B) $50,000.

"(3) CERTAIN INDIVIDUALS NOT ELIGIBLE.—This subsection shall not apply to—

"(A) any taxpayer whose adjusted gross income for the taxable year exceeds $150,000, or

"(B) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(4) ANNUAL DEDUCTION NOT AVAILABLE FOR SALES TO RELATED PERSONS.—The amount of the net capital gain taken into account under paragraph (1)(A) shall not exceed the amount of the net capital gain determined by not taking into account gains and losses from sales and exchanges to any related person (as defined in section 543(f)).

"(c) LIFETIME CAPITAL GAINS DEDUCTION FOR NONTRADABLE PROPERTY.—

"(1) IN GENERAL.—For purposes of subsection (a), the lifetime capital gains deduction for nontradable property determined under this subsection for any taxable year is 50 percent of the qualified gain for such taxable year.

"(2) LIMITATION.—

"(A) IN GENERAL.—The amount of the qualified gain taken into account under paragraph (1) for any taxable year shall not exceed $200,000 reduced by the aggregate amount of the qualified gain taken into account under this subsection by the taxpayer for prior taxable years.

"(B) SPECIAL RULE FOR JOINT RETURNS.—The amount of the qualified gain taken into account under this subsection on a joint return for any taxable year shall be allocated equally between the spouses for purposes of determining the limitation under subparagraph (A) for any succeeding taxable year.

"(3) QUALIFIED GAIN.—For purposes of paragraph (1), the term 'qualified gain' means the lesser of—

"(A) the net capital gain for the taxable year reduced by the annual capital gains deduction for such taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gains and losses from sales and exchanges on or after October 15, 1990, or qualified assets.

A taxpayer may elect for any taxable year not to take into account under this subsection all (or any portion) of the qualified gain for such taxable year. Such an election, once made, shall be irrevocable.

"(4) QUALIFIED ASSETS.—For purposes of this subsection, the terms 'qualified assets' means any property other than—

"(A) stock or securities for which there is a market on an established securities market or otherwise, and

"(B) property (other than stock or securities) of a kind regularly traded on an established market.

"(5) SUBSECTION NOT TO APPLY TO CERTAIN INDIVIDUALS.—This subsection shall not apply to any individual who has not attained age 25 before the close of the taxable year.

"(d) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—No deduction shall be allowed under this section to—

"(1) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

"(2) an estate or trust.

"(e) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of subsection (c), any gain from the sale or exchange of a qualified asset which is an interest in a partnership, S corporation, or trust shall not be treated as gain from the sale or exchange of a qualified asset to the extent such gain is attributable to unrealized appreciation in the value of property described in subparagraph (A) or (B) of subsection (c)(4) which is held by such entity. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(2) DEDUCTION AVAILABLE ONLY FOR SALES OR EXCHANGES ON OR AFTER OCTOBER 15, 1990.—The amount of the net capital gain taken into account under subsections (b)(1)(A) and (c)(3)(A) shall not exceed the amount of the net capital gain determined by only taking into account gains and losses from sales and exchanges on or after October 15, 1990.

"(3) DETERMINATION OF ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—For purposes of subsection (b), adjusted gross income shall be determined—

"(i) without regard to the deduction allowed under this section, but

"(ii) after the application of sections 86, 135, 219, and 469.

"(B) COORDINATION WITH OTHER ADJUSTED GROSS INCOME LIMITATIONS.—For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(4) TRANSITIONAL RULE.—If for any taxable year beginning before January 1, 1991, subsection (c)(1) shall be applied by substituting '41 percent' for '50 percent'.

"(5) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this section with respect to any pass-thru entity—

"(i) the determination of when the sale or exchange occurs shall be made at the entity level, and

"(ii) any gain attributable to such entity shall in no event be treated as gain from sale or exchange of a qualified asset if interests in such entity are described in subparagraph (A) or (B) of subsection (c)(4)

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru-entity' means—

"(i) a regulated investemnt company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common turst fund."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles).

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Paragraph (1) of section 56(b) is amended by adding at the end thereof the following new subparagraph:

"(F) LIFETIME CAPITAL GAINS DEDUCTION FOR NONTRADABLE PROPERTY NOT ALLOWED.—The deduction under section 1202(a)(2) shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 62 is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPTIAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any gain from such property" after "investment".

(3)(A) Paragraph (2) of section 172(d) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(4)(A) Section 221 (relating to cross reference is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 221 and inserting "references".

(5) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(6) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(7) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

"(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Capital gains deduction for individuals."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after October 15, 1990.

(2) TREATMENT OF COLLECTIBLES.—The amendments made by subsection (b) shall apply to dispositions on or after October 15, 1990

Subpart B—Depreciation Recapture

SEC. 13136. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect of such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (l) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subparagraph (D) of section 1250(d)(8) is amended—

(A) by striking "additional depreciation" each place it appears and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(4) Paragraph (8) of section 1250(d) is amended by striking subparagraphs (E) and (F) and inserting in the following:

"(E) ALLOCATION RULES.—For purposes of this paragraph, the amount of gain attributable to the section 1250 property disposed of shall be the net amount realized with respect to such property reduced by the greater of the adjusted basis of the section 1250 property disposed of, or the cost of the section 1250 property acquired, but shall not exceed the gain recognized in the transaction."

(5) Subsection (d) of section 1250 is amended by striking paragraph (10).

(6) Section 1250 is amended by striking subsections (e), (f), and (g) and by redesignating subsections (h) and (i) as subsections (e) and (f), respectively.

(7) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(8) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990".

(9)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4) respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made on or after October 15, 1990, in taxable years ending on or after such date.

Subtitle B—Excise Taxes

PART I—TAXES RELATED TO HEALTH AND THE ENVIRONMENT

SEC. 13201. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking "$12.50" and inserting "13.50".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking "$12.50" and inserting "$13.50".

(b) WINE.—

(1) TAX INCREASES.—

(A) WINES CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL.—Paragraph (1) of section 5041(b) (relating to rates of tax on wines) is amended by striking "17 cents" and inserting "$1.27".

(B) WINES CONTAINING MORE THAN 14 (BUT NOT MORE THAN 21) PERCENT ALCOHOL.—Paragraph (2) of section 5041(b) is amended by striking "67 cents" and inserting "$1.77".

(C) WINES CONTAINING MORE THAN 21 (BUT NOT MORE THAN 24) PERCENT ALCOHOL.—Paragraph (3) of section 5041(b) is amended by striking "$2.25" and inserting "$3.35".

(D) ARTIFICIALLY CARBONATED WINES.—Paragraph (5) of section 5041(b) is amended by striking "$2.40" and inserting "$3.50".

(2) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—Section 5041 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) REDUCED RATES FOR SMALL DOMESTIC PRODUCERS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, in the case of a person who produces not more than 200,000 wine gallons of wine during the calendar year, the per wine gallon rates of the taxes imposed by this section shall be the following amounts on the 1st 100,000 wine gallons of wine (other than wine described in subsection (b)(4)) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States:

"(A) 17 cents in the case of wines described in subsection (b)(1).

"(B) 67 cents in the case of wines described in subsection (b)(2).

"(C) $2.25 in the case of wines described in subsection (b)(3).

"(D) $3.40 in the case of wines described in subsection (b)(4).

"(E) $2.40 in the case of wines described in subsection (b)(5).

"(2) CONTROLLED GROUPS.—Rules similar to rules of section 5051(a)(2)(B) shall apply for purposes of this subsection.

"(3) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this subsection from benefiting any person who produces more than 200,000 wine gallons of wine during a calendar year."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 5041 is amended by striking "shown in subsection (b)" and inserting "applicable under subsection (c)".

(B) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(e),".

(c) BEER.—

(1) IN GENERAL.—Paragraph (1) of section 5051(a) (relating to imposition and rate of tax on beer) is amended by striking "$9" and inserting "$18".

(2) REGULATIONS.—Paragraph (2) of section 5051(a) is amended by adding at the end thereof the following new subparagraph:

"(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this paragraph from benefiting any person who produces more than 2,000,000 barrels of beer during a calendar year."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

(e) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—

(A) IN GENERAL.—In the case of any tax-increased article—

(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

(ii) which is held on such date for sale by any person,

there shall be imposed a tax at the applicable rate on each such article.

(B) APPLICABLE RATE.—For purposes of subparagraph (A), the applicable rate is—

(i) $1 per proof gallon in the case of distilled spirits,

(ii) $1.10 per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

(iii) $9 per barrel in the case of beer. In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

(C) TAX-INCREASED ARTICLE.—For purposes of this subsection, the term "tax-increased article" means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS.—In the case of wine held by the producer thereof on January 1, 1991, the tax imposed by paragraph (1) shall not apply to such wine if the rate of tax under section 5041 of such Code on such wine would have been determined under subsection (c) thereof (as added by this section) had the amendments made by subsection (c) applied to all wine removed during 1990. As similar rule shall apply to beer held by the producer thereof. For purposes of this paragraph, an article shall not be treated as held by the producer if title thereto had at any time been transferred to any other person.

(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on tax-increased articles held on January 1, 1991, by any dealer if—

(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to—

(A) $240 to the extent such taxes are attributable to distilled spirits,

(B) $330 to the extent such taxes are attributable to wine, and

(C) $87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(6) CONTROLLED GROUPS.—

(A) CORPORATIONS.—In the case of a controlled group.—

(i) the 500 wine gallon amount specified in paragraph (3), and

(ii) the $240, $330, and $87 amounts specified in paragraph (4),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(7) OTHER LAWS APPLICABLE.—

(A) IN GENERAL.—All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

(B) COMPARABLE EXCISE TAX.—For purposes of subparagraph (A), the term "comparable excise tax" means—

(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

(ii) the tax imposed by section 5041 of such Code in the case of wine, and

(iii) the tax imposed by section 5051 of such Code in the case of beer.

(8) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

(B) PERSON.—The term "person" includes any State or political subdivsiion thereof, or any agency or instrumentality of a State or political subdivision thereof.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.

SEC. 13202. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "75 cents per thousand" in paragraph (1) and inserting "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to—

"(A) 10.625 percent of the price for which sold but not more than $25 per thousand on cigars removed during 1991 or 1992, and

"(B) 12.75 percent of the price for which sold but not more than $30 per thousand on cigars removed after 1992."

(b) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$8 per thousand" in paragraph (1) and inserting "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)", and

(2) by striking "$16.80 per thousand" in paragraph (2) and inserting "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)".

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "½ cent" and inserting "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1 cent" and inserting "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "24 cents" in paragraph (1) and inserting "36 cents (30 cents on snuff removed during 1991 or 1992)", and

(2) by striking "8 cents" in paragraph (2) and inserting "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "45 cents" and inserting "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

(h) FLOOR STOCKS TAXES ON CIGARETTES.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes.

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $2 per thousand.

(B) LARGE CIGARETTES.—On cigarettes weighing more than 3 pounds per thousand, $4.20 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) EXCEPTION FOR CERTAIN AMOUNTS OF CIGARETTES.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if—

(i) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6½ inches in length, each 2¾ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph

(1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Secretary so provides with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and the $60 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

(5) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means January 1, 1991, and January 1, 1993.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 13201(e)(5) shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701.

SEC. 13203. ADDITIONAL CHEMICALS SUBJECT TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) GENERAL RULE.—

(1) The table set forth in section 4682(a)(2) (defining ozone-depleting chemical) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	tetrachloromethane.
Methyl Chloroform	1,1,1-trichloroethane.
CFC-13	CF_3Cl.
CFC-111	C_2FCl_5.
CFC-112	$C_2F_2Cl_4$.
CFC-211	C_3FCl_7.
CFC-212	$C_3F_2Cl_6$.
CFC-213	$C_3F_3Cl_5$.
CFC-214	$C_3F_4Cl_4$.
CFC-215	$C_3F_5Cl_3$.
CFC-216	$C_3F_6Cl_2$.
CFC-217	C_3F_7Cl."

(2) The table set forth in section 4682(b) is amended by adding at the end thereof the following new items:

"Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0."

(b) SEPARATE APPLICATION OF EXPORT CREDIT LIMIT FOR NEWLY LISTED CHEMICALS.—Paragraph (3) of section 4682(d) is amended by adding at the end thereof the following new subparagraph:

"(C) SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS.—

"(i) IN GENERAL.—Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

"(ii) APPLICATION TO NEWLY LISTED CHEMICALS.—In applying subparagraph (B) to newly listed chemicals—

"(I) subparagraph (B) shall be applied by substituting '1989' for '1986' each place it appears, and

"(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

"(iii) NEWLY LISTED CHEMICAL.—For purposes of this subparagraph, the term 'newly listed chemical' means any substance which appears in the table contained in subsection (a)(2) below Halon-2402."

(c) SEPARATE BASE TAX AMOUNT FOR NEWLY LISTED CHEMICALS.—Subparagraphs (B) and (C) of section 4681(b)(1) are amended to read as follows:

"(B) BASE TAX AMOUNT.—

"(i) INITIALLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C) is the amount determined under the following table for such calendar year:

"Calendar year:	*Base tax amount*
1990 or 1991	$1.37
1992	1.67
1993 or 1994	2.65.

"(ii) NEWLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical which is a newly listed chemical (as so defined) is the amount determined under the following table for such calendar year:

"Calendar year:	*Base tax amount*
1991 or 1992	$1.37
1993	1.67
1994	3.00
1995	3.10.

"(C) BASE TAX AMOUNT FOR LATER YEARS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year."

(d) OTHER AMENDMENTS.—

(1) The last sentence of section 4682(c)(2) is amended by inserting "(other than methyl chloroform)" after "ozone-depleting chemical".

(2) Paragraph (3) of section 4682(h) is amended by striking "April 1" and inserting "June 30".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses after December 31, 1990.

(f) DEPOSITS FOR 1ST QUARTER OF 1991.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by subsection (a)(1) shall be required to be made before April 1, 1991.

PART II—USER-RELATED TAXES

SEC. 13211. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION.—

(1) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 are each amended by striking "8 percent" and inserting "10 percent".

(2) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 is amended by striking "5 percent" and inserting "6.25 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after November 30, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL.—

(1) IN GENERAL.—Paragraph (3) of section 4091(b) is amended by striking "14 cents" and inserting "17.5 cents".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(c) is amended by striking "14 cents" and inserting "17.5 cents".

(B)(i) Subparagraph (C) of section 4041(k)(1) is amended to read as follows:

"(C) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

"(B) subsection (c) shall be applied by substituting '3.5 cents' for '17.5 cents'."

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 3.5 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such moisture was not taxed under subparagraph (B), and

"(B) 3.89 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ½ cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 3.5 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel."

(ii) The heading for subsection (d) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF".

(3) Subsection (f) of section 6427 is amended to read as follows:

(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4910(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (1) of this section or under section 6420 or 6421.

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 1995."

EFFECTIVE DATES.—The amendments made by this subsection shall take effect on December 1, 1990.

(5) FLOOR STOCKS TAXES.—

(A) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before December 1, 1990, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such fuel.

(B) RATE OF TAX.—The rate of tax imposed by subparagraph (A) shall be 3.5 cents per gallon.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding fuel on December 1, 1990, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT.—The tax imposed by this paragraph shall be paid on or before May 31, 1991.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) HELD BY A PERSON.—Fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092(a) of such Code.

(iii) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES.—The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(1) of such Code.).

(F) OTHER LAWS APPLICABLE.—All provisions of laws, including penalties, applicable with respect to the tax imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—Subsection (b) of section 9502 is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed before January 1, 1993, paragraphs (1), (2), and (3) shall be applied without regard to any increase in tax enacted by Revenue Reconciliation Act of 1990."

(d) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 1, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(5) is amended by striking "January 1, 1991" and inserting "January 1, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1996".

(e) REPEAL OF REDUCTION IN RATES.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) Table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

SEC. 13212. AMENDMENTS TO GAS GUZZLER TAX.

(a) INCREASE IN RATE OF TAX.—Subsection (a) of section 4064 (relating to gas guzzler tax) is amended to read as follows:

"(a) IMPOSITION OF TAX.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following table:

If the fuel economy of the model type in which the automobile falls is:	*The tax is—*
At least 22.5	$0
At least 21.5 but less than 22.5	1,000
At least 20.5 but less than 21.5	1,300
At least 19.5 but less than 20.5	1,700
At least 18.5 but less than 19.5	2,100
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,000
At least 15.5 but less than 16.5	3,700
At least 14.5 but less than 15.5	4,500
At least 13.5 but less thaqn 14.5	5,400
At least 12.5 but less than 13.5	6,400
Less than 12.5	7,700."

(b) LIMOUSINES INCLUDED WITHOUT REGARD TO WEIGHT.—Subparagraph (A) of section 4064(b)(1) is amended by adding at the end thereof the following new sentence: "In the case of a limousine, the preceding sentence shall be applied without regard to clause (ii)."

(c) REPEAL OF EXCEPTION FOR LENGTHENING EXISTING AUTOMOBILES.—Subparagraph (B) of section 4064(b)(5) (defining manufacturer) is amended to read as follows:

"(B) LENGTHENING TREATED AS MANUFACTURE.—For purposes of this section, subchapter G of this chapter, and section 6416(b)(3), the lengthening of an automobile by any person shall be treated as the manufacture of an automobile by such person."

(d) REPEAL OF SPECIAL RULES FOR SMALL MANUFACTURERS.—Section 4064 is amended by striking subsection (d).

(e) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to sales after December 31, 1990.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on January 1, 1991.

(3) SUBSECTION (d).—The amendment made by subsection (d) shall take effect on the date of the enactment of this section.

SEC. 13213. INCREASE IN HARBOR MAINTENANCE TAX.

(a) IN GENERAL.—Subsection (b) of section 4461 is amended by striking "0.04 percent" and inserting "0.125 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1991.

SEC. 13214. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

(a) IN GENERAL.—Paragraph (2) of section 4081(d) is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1996."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 13215. FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES.

Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part, part I, or part IV shall be subject to floor stocks taxes imposed by such parts if—

(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a)

Subtitle C—Other Revenue Increases

PART I—INSURANCE PROVISIONS

Subpart A—Provisions Related to Policy Acquisition Costs

SEC. 13301. CAPITALIZATION OF POLICY ACQUISITION EXPENSES.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 848. CAPITALIZATION OF CERTAIN POLICY ACQUISITION EXPENSES.

"(a) GENERAL RULE.—In the case of an insurance company—

"(1) specified policy acquisition expenses for any taxable year shall be capitalized, and

"(2) such expenses shall be allowed as a deduction ratably over the 120-month period beginning with the first month in the second half of such taxable year.

"(b) 5-YEAR AMORTIZATION PERIOD FOR SMALL COMPANIES.—

"(1) IN GENERAL.—Paragraph (2) of subsection (a) shall be applied with respect to specified policy acquisition expenses for any taxable year of an insurance company which is a small company for such taxable year by substituting '60-month' for '120-month'.

"(2) SMALL COMPANY DEFINED.—For purposes of this subsection, the term 'small company' means any insurance company which meets the requirements of section 806(a)(3); except that—

"(A) paragraph (1)(A) of section 806(c) shall be applied by substituting 'insurance' for 'life insurance' each place it appears, and

"(B) paragraph (2) of section 806(c) shall not apply.

"(3) EXCEPTION FOR ACQUISITION EXPENSES ATTRIBUTABLE TO CERTAIN REINSURANCE CONTRACTS.—This subsection shall not apply to any specified policy acquisition expenses for any taxable year which are attributable to premiums or other consideration under any reinsurance contract with any insurance company unless each insurance company which takes into account premiums with respect to the reinsured contract is a small company.

"(c) SPECIFIED POLICY ACQUISITION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified policy acquisition expenses' means, with respect to any taxable year, so much of the general deductions for such taxable year as does not exceed the sum of—

"(A) 1.5 percent of the net premiums for such taxable year on specified insurance contracts which are annuity contracts,

"(B) 1.80 percent of the net premiums for such taxable year on specified insurance contracts which are group life insurance contracts, and

"(C) 6.75 percent of the net premiums for such taxable year on specified insurance contracts not described in subparagraph (A) or (B).

"(2) GENERAL DEDUCTIONS.—The term 'general deductions' means the deductions provided in part VI of subchapter B (sec. 161 and following, relating to itemized deductions) and in part I of subchapter D (sec. 401 and following, relating to pension, profit sharing, stock bonus plans, etc.).

"(d) NET PREMIUMS.—For purposes of this section—

"(1) IN GENERAL.—The term 'net premiums' means, with respect to any category of specified insurance contracts set forth in subsection (c)(1), the excess (if any) of—

"(A) the gross amount of premiums and other consideration on such contracts, over

"(B) return premiums on such contracts and premiums and other consideration incurred for reinsurance of such contracts.

The rules of section 803(b) shall apply for purposes of the preceding sentence.

"(2) AMOUNTS DETERMINED ON ACCRUAL BASIS.—In the case of an insurance company subject to tax under part II of this subchapter, all computations entering into determinations of net premiums for any taxable year shall be made in the manner required under section 811(a) for life insurance companies.

"(3) TREATMENT OF CERTAIN POLICYHOLDER DIVIDENDS AND SIMILAR AMOUNTS.—Net premiums shall be determined without regard to section 808(e) and without regard to other similar amounts treated as paid to, and returned by, the policyholder.

"(4) SPECIAL RULE FOR CERTAIN REINSURANCE.—Premiums and other consideration incurred for reinsurance shall be taken into account under paragraph (1)(B) only to the extent such premiums and other consideration are includible in the gross income of an insurance company taxable under this subchapter or are subject to tax under this chapter by reason of subpart F of part III of subchapter N.

"(e) CLASSIFICATION OF CONTRACTS.—For purposes of this section—

"(1) SPECIFIED INSURANCE CONTRACT.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'specified insurance contract' means any life insurance, annuity, or noncancellable accident and health insurance contract (including any life insurance or annuity contract combined with noncancellable accident and health insurance).

"(B) EXCEPTIONS.—The term 'specified insurance contract' shall not include—

"(i) any pension plan contract (as defined in section 818(a)),

"(ii) any flight insurance or similar contract, and

"(iii) any qualified foreign contract (as defined in section 807(e)(4) without regard to paragraph (5) of this subsection).

"(2) GROUP LIFE INSURANCE CONTRACT.—The term 'group life insurance contract' means any life insurance contract—

"(A) which covers a group of individuals defined by reference to employment relationship, membership in an organization, or similar factor,

"(B) the premiums for which are determined on a group basis, and

"(C) the proceeds of which are payable to (or for the benefit of) persons other than the employer of the insured, an organization to which the insured belongs, or other similar person.

"(3) TREATMENT OF ANNUITY CONTRACTS COMBINED WITH NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE.—Any annuity contract combined with noncancellable accident and health insurance shall be treated as a noncancellable accident and health insurance contract and not as an annuity contract.

"(4) TREATMENT OF GUARANTEED RENEWABLE CONTRACTS.—The rules of section 816(e) shall apply for purposes of this section.

"(5) TREATMENT OF REINSURANCE CONTRACT.—A contract which reinsures another contract shall be treated in the same manner as the reinsured contract.

"(f) SPECIAL RULE WHERE NEGATIVE NET PREMIUMS.—

"(1) IN GENERAL.—If for any taxable year there is a negative capitalization amount with respect to any category of specified insurance contracts set forth in subsection (c)(1)—

"(A) the amount otherwise required to be capitalized under this section for such taxable year with respect to any other category of specified insurance contracts shall be reduced (but not below zero) by such negative capitalization amount, and

"(B) such negative capitalization amount (to the extent not taken into account under subparagraph (A))—

"(i) shall reduce (but not below zero) the unamortized balance (as of the beginning of such taxable year) of the amounts previously capitalized under subsection (a) (beginning with the amount capitalized for the most recent taxable year), and

"(ii) to the extent taken into account as such a reduction, shall be allowed as a deduction for such taxable year.

"(2) NEGATIVE CAPITALIZATION AMOUNT.—For purposes of paragraph (1), the term 'negative capitalization amount' means, with respect to any category of specified insurance contracts, the percentage (applicable under subsection (c)(1) to such category) of the amount (if any) by which—

"(A) the amount determined under subparagraph (B) of subsection (d (1) with respect to such category, exceeds

"(B) the amount determined under subparagraph (A) of subsection (d)(1) with respect to such category.

"(g) TREATMENT OF CERTAIN CEDING COMMISSIONS.—Nothing in any provision of law (other than this section) shall require the capitalization of any ceding commission incurred on or after September 30, 1990, under any reinsurance contract.

"(h) TREATMENT OF QUALIFIED FOREIGN CONTRACTS UNDER ADJUSTED CURRENT EARNINGS PREFERENCE.—For purposes of determining adjusted current earnings under section 56(g), acquisition expenses with respect to contracts described in clause (iii) of subsection (e)(1)(B) shall be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subsection applied to such contracts for all taxable years.

"(i) TRANSITIONAL RULE.—In the case of any taxable year which includes September 30, 1990, the amount taken into account as the net premiums (or negative capitalization amount) with respect to any category of specified insurance contracts shall be the amount which bears the same ratio to the amount which (but for this subsection) would be so taken into account as the number of days in such taxable year on or after September 30, 1990, bears to the total number of days in such taxable year."

(b) REPEAL OF SPECIAL TREATMENT OF ACQUISITION EXPENSES UNDER MINIMUM TAX.—Paragraph (4) of section 56(g) is amended by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 848. Capitalization of certain policy acquisition expenses."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years ending on or after September 30, 1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after September 30, 1990.

(B) SPECIAL RULES FOR YEAR WHICH INCLUDES SEPTEMBER 30, 1990.—In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) shall be the amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F).

SEC. 13302. TREATMENT OF CERTAIN NONLIFE RESERVES OF LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Subsection (e) of section 807 (relating to special rules for computing reserves) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TREATMENT OF CERTAIN NONLIFE RESERVES.—

"(A) IN GENERAL.—The amount taken into account for purposes of subsection (a) and (b) as—

"(i) the opening balance of the items referred to in subparagraph (C), and

"(ii) the closing balance of such items,

shall be 80 percent of the amount which (without regard to this subparagraph) would have been taken into account as such opening or closing balance, as the case may be.

"(B) TRANSITIONAL RULE.—

"(i) IN GENERAL.—In the case of any taxable year beginning on or after September 30, 1990, and on or before September 30, 1996, there shall be included in the gross income of any life insurance company an amount equal to 3⅓ percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning before September 30, 1990.

"(ii) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if, for any taxable year beginning on or before September 30, 1996, the taxpayer ceases to be a life insurance company, the aggregate inclusions which would have been made under clause (i) for such taxable year and subsequent taxable years but for such cessation shall be taken into account for the taxable year preceding such cessation year.

"(C) DESCRIPTION OF ITEMS.—For purposes of this paragraph, the items referred to in this subparagraph are the items described in subsection (c) which consist of unearned premiums and premiums received in advance under insurance contracts not described in section 816(b)(1)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after September 30, 1990.

SEC. 13303. TREATMENT OF LIFE INSURANCE RESERVES OF INSURANCE COMPANIES WHICH ARE NOT LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking "section 807, pertaining" and all that follows down through the period at the end of the first sentence which follows subparagraph (C) and inserting "section 807.".

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(7) is amended—

(1) by striking "amounts included in unearned premiums under the 2nd sentence of such subparagraph" and inserting "insurance contracts described in section 816(b)(1)(B)", and

(2) by striking "such amounts into account" and inserting "such contracts into account".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after September 30, 1990.

Subpart B—Treatment of Salvage Recoverable

SEC. 13306. TREATMENT OF SALVAGE RECOVERABLE.

(a) GENERAL RULE.—Subparagraph (A) of section 832(b)(5) (defining losses incurred) is amended to read as follows:

"(A) IN GENERAL.—The term 'losses incurred' means losses incurred during the taxable year on insurance contracts computed as follows:

"(i) To losses paid during the taxable year, deduct salvage and reinsurance recovered during the taxable year.

"(ii) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct all unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year.

"(iii) To the results so obtained, add estimated salvage and reinsurance recoverable as of the end of the preceding taxable year and deduct estimated salvage and reinsurance recoverable as of the end of the taxable year.

The Secretary shall by regulations provide that the amounts referred to in clause (iii) shall be determined on a discounted basis in accordance with procedures established in such regulations."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 846 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—

(A) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change his method of computing losses incurred—

(i) such change shall be treated as a change in a method of accounting,

(ii) such change shall be treated as initiated by the taxpayer, and

(iii) such change shall be treated as having been made with the consent of the Secretary.

(B) FRESH START.—Notwithstanding section 481 of the Internal Revenue Code of 1986, the net amount of the adjustments (otherwise required by such section 481 to be taken into account by the taxpayer) shall not be required to be taken into account for any taxable year.

(3) SPECIAL RULE FOR OVERESTIMATES.—If for any taxable year beginning after December 31, 1989—

(A) the amount of the section 481 adjustment which would have been required without regard to paragraph (2) and any discounting, exceeds

(B) the sum of the amount of salvage recovered taken into account under section 832(b)(5)(A)(i) for the taxable year and any preceding taxable year beginning after December 31, 1989, attributable to losses incurred with respect to any accident year beginning before 1990 and the undiscounted amount of estimated salvage recoverable as of the close of the taxable year on account of such losses,

such excess (adjusted by the discount rate used in determining the amount of salvage recoverable as of the close of the last taxable year of the taxpayer beginning before January 1, 1990) shall be included in gross income for such taxable year.

(4) EFFECT ON EARNINGS AND PROFITS.—The earnings and profits of any insurance company for its 1st taxable year beginning after December 31, 1989, shall be increased by the amount of the section 481 adjustment which would have been required but for paragraph (2). For purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, earnings and profits of a corporation shall be determined without regard to the preceding sentence.

Subpart C—Waiver of Estimated Tax Penalties

SEC. 13307. WAIVER OF ESTIMATED TAX PENALTIES.

No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part.

PART II—COMPLIANCE PROVISIONS

SEC. 13311. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) GENERAL RULE.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

"(1) IN GENERAL.—If any designated summons is issued by the Secretary with respect to any return of tax by a corporation, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

"(A) during any judicial enforcement period—

"(i) with respect to such summons, or

"(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

"(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

"(2) DESIGNATED SUMMONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

"(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

"(B) LIMITATION.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

"(3) JUDICIAL ENFORCEMENT PERIOD.—For purposes of this subsection, the term 'judicial enforcement period' means, with respect to any summons, the period—

"(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

"(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 13312. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) GENERAL RULE.—Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

"(e) SUBSTANTIAL VALUATION MISSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

"(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

"(B)(i) the price for any property or services claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(3) NET SECTION 482 TRANSFER PRICE ADJUSTMENT.—For purposes of this subsection, the term 'net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the transfer price for any property or services. For purposes of the preceding sentence, rules similar to the rules of the last sentence of section 55(b)(2) shall apply."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

"(3) Any substantial valuation misstatement under chapter 1."

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and

"(iii) '$20,000,000' for '$10,000,000',".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 13313. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) GENERAL RULE.—Subsection (n) of section 6103 (relating to certain other persons) is amended—

(1) by striking "and the programming" and inserting "the programming", and

(2) by inserting after "of equipment," the following "and the providing of other services,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13314. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 13315. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) REQUIREMENT.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) APPLICABLE RULES.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) DEFINITIONS.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6038A(a) is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

SEC. 13316. STUDY OF SECTION 482.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of—

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) REPORT.—Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART III—EMPLOYER REVERSIONS

SUBPART A—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS

SEC. 13321. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 13322. ADDITIONAL TAX IF NO REPLACEMENT PLAN.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '50 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 30 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of—

"(I) 30 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includible in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

"(ii) COORDINATION WITH SECTION 415 LIMITATION.—If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause—

"(I) such amount shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

"(iii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

"(iv) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) PRO RATA BENEFIT INCREASES.—

"(A) IN GENERAL.—The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which

"(i) have an aggregate present value not less than 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(ii) take effect immediately on the termination date.

"(B) PRO RATA INCREASE.—For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as—

"(i) the present value of such participant's nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(ii) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting 'equal to' for 'not less than'.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date

and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

'(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State law."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 13323. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

Subpart B—Transfers to Retiree Health Accounts

SEC. 13325. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits

as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM COST REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)), except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 13326. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "4044,".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the first plan year after the plan year in which such transfer occurs in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code), except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury,

the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

PART IV—CORPORATE PROVISIONS

SEC. 13231. RECOGNITION OF GAIN BY DISTRIBUTING CORPORATION IN CERTAIN SECTION 355 TRANSACTIONS.

(a) GENERAL RULE.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by striking subsection (c) and inserting the following new subsections:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation on any distribution to which this section (or so much of section 356 as relates to this section) applies and which is not in pursuance of a plan of reorganization.

"(2) DISTRIBUTION OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of subparagraph (A), the term 'qualified property' means any stock or securities in the controlled corporation.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) COORDINATION WITH SECTIONS 311 AND 336(a).—Sections 311 and 336(a) shall not apply to any distribution referred to in paragraph (1).

"(d) RECOGNITION OF GAIN ON CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES IN CONTROLLED CORPORATION.—

"(1) IN GENERAL.—In the case of a disqualified distribution, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(2) DISQUALIFIED DISTRIBUTION.—For purposes of this subsection, the term 'disqualified distribution' means any distribution to which this section (or so much of section 356 as relates to this section) applies if, immediately after the distribution—

"(A) any person holds disqualified stock in the distributing corporation which constitutes a 50-percent or greater interest in such corporation, or

"(B) any person holds disqualified stock in the controlled corporation (or, if stock of more than 1 controlled corporation is distributed, in any controlled corporation) which constitutes a 50-percent or greater interest in such corporation.

"(3) DISQUALIFIED STOCK.—For purposes of this subsection, the term 'disqualified stock' means—

"(A) any stock in the distributing corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, and

"(B) any stock in any controlled corporation—

"(i) acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

"(ii) received in the distribution to the extent attributable to distributions on stock described in subparagraph (A).

"(4) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection, the term '50-percent or greater interest' means stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of 267(b) or 707(b)(1)) shall be treated as one person. For purposes of the preceding sentence, sections 267(b) and 707(b)(1) shall be applied by substituting '10 percent' for '50 percent' each place it appears.

"(B) PERSONS ACTING PURSUANT TO PLANS OR ARRANGEMENTS.—If two or more persons act pursuant to a plan or arrangement with respect to acquisitions of stock in the distributing corporation or controlled corporation, such persons shall be treated as one person for purposes of this subsection.

"(6) PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'purchase' means any acquisition but only if—

"(i) the basis of the property acquired in the hands of the acquirer is not determined (I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or (II) under section 1014(a),

"(ii) except as provided in regulations, the property is not acquired in an exchange to which section 351, 354, 355, or 356 applies, and

"(iii) the property is not acquired in any other transaction described in regulations.

"(B) CERTAIN 351 EXCHANGES TREATED AS PURCHASES.—The term 'purchase' includes any acquisition of stock in an exchange to which section 351 applies to the extent such stock is acquired in exchange for—

"(i) any cash or cash item,

"(ii) any marketable security, or

"(iii) any debt of the transferor.

"(C) CARRYOVER BASIS TRANSACTIONS.—If—

"(i) any person acquires stock from another person who acquired such stock by purchase (as determined under this paragraph with regard to this subparagraph), and

"(ii) the adjusted basis of such stock in the hands of such acquirer is determined in whole or in part by reference to the adjusted basis of such stock in the hands of such other person,

such acquirer shall be treated as having acquired such stock by purchase on the date it was so acquired by such other person.

"(7) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(A) IN GENERAL.—If this paragraph applies to any stock for any period, the running of the 5-year period set forth in subparagraph (A) or (B)(i) of paragraph (3) (whichever applies) shall be suspended during such period.

"(B) STOCK TO WHICH SUSPENSION APPLIES.—This paragraph applies to any stock for any period during which the holder's risk of loss with respect to such stock is (directly or indirectly) substantially diminished by—

"(i) an option,

"(ii) a short sale,

"(iii) any special class of stock,

"(iv) any device limiting risk from any portion of the activities of the corporation, or

"(v) any other device or transaction.

"(8) ATTRIBUTION FROM ENTITIES.—

"(A) IN GENERAL.—Paragraph (2) of section 318(a) shall apply in determining whether a person holds stock in any corporation (determined by substituting '10 percent' for '50 percent' in subparagraph (C) of such paragraph (2)).

"(B) DEEMED PURCHASE RULE.—If—

"(i) any person acquires by purchase an interest in any entity, and

"(ii) such person is treated under subparagraph (A) as holding any stock by reason of holding such interest,

such stock shall be treated as acquired by purchase by such person on the date of the purchase of the interest in such entity.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to prevent the avoidance of the purposes of this subsection through the use of related persons, pass-thru entities, options, or other arrangements."

(b) TECHNICAL AMENDMENTS.—Subsection (c) of section 361 is amended by adding at the end thereof the following new paragraph:

"(5) CROSS REFERENCE.—

"For provision providing for recognition of gain in certain distributions, see section 355(d)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after October 9, 1990.

(2) TRANSITIONAL RULES.—For purposes of subparagraphs (A) and (B)(i) of section 355(d)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), an acquisition shall be treated as occurring on or before October 9, 1990 if—

(A) such acquisition is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition,

(B) such acquisition is pursuant to a tender or exchange offer filed with the Se-

curities and Exchange Commission on or before October 9, 1990, or

(C) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

SEC. 13332. MODIFICATIONS TO REGULATIONS ISSUED UNDER SECTION 305(c).

(a) GENERAL RULE.—Subsection (c) of section 305 (relating to certain transactions treated as distributions) is amended by adding at the end thereof the following new sentence: "Regulations prescribed under the preceding sentence shall provide that—

"(1) where the issuer of stock is required to redeem the stock at a specified time or the holder of stock has the option to require the issuer to redeem the stock, a redemption premium resulting from such requirement or option shall be treated as reasonable only if the amount of such premium does not exceed the amount determined under the principles of section 1273(a)(3),

"(2) a redemption premium shall not fail to be treated as a distribution (or series of distributions) merely because the stock is callable, and

"(3) in any case in which a redemption premium is treated as a distribution (or series of distributions), such premium shall be taken into account under principles similar to the principles of section 1272(a)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after October 9, 1990.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any stock issued after October 9, 1990, if—

(A) such stock is issued pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance, or

(B) such stock is issued pursuant to a registration or offering statement filed on or before October 9, 1990, with a Federal or State agency regulating the offering or sale of securities and such stock is issued before the date 90 days after the date of such filing.

SEC. 13333. MODIFICATIONS TO SECTION 1060.

(a) EFFECT OF ALLOCATION AGREEMENTS.—Subsection (a) of section 1060 (relating to special allocation rules for certain asset allocations) is amended by adding at the end thereof the following new sentence: "If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate."

(b) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTEREST IN ENTITIES.—

(1) IN GENERAL.—Section 1060 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTERESTS IN ENTITIES.—

"(1) IN GENERAL.—If—

"(A) a person who is a 10-percent owner with respect to any entity transfers an interest in such entity, and

"(B) in connection with such transfer, such owner (or a related person) enters into an employment contract, covenant not to compete, royalty or lease agreement, or other agreement with the transferee,

such owner and the transferee shall, at such time and in such manner as the Secretary may prescribe, furnish such information as the Secretary may require.

"(2) 10-PERCENT OWNER.—For purposes of this subsection—

"(A) IN GENERAL.—The term '10-percent owner' means, with respect to any entity, any person who holds 10 percent or more (by value) of the interests in such entity immediately before the transfer.

"(B) CONSTRUCTIVE OWNERSHIP.—Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner."

(2) TECHNICAL AMENDMENT.—Clause (x) of section 6724(d)(1)(B) is amended by striking "section 1060(b)", and inserting "subsection (b) or (e) of section 1060".

(c) INFORMATION REQUIRED IN SECTION 338(h)(10) TRANSACTIONS.—Paragraph (10) of section 338 is amended by adding at the end thereof the following new subparagraph:

"(C) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Under regulations, where an election is made under subparagraph (A), the purchasing corporation and the common parent of the selling consolidated group shall, at such times and in such manner as may be provided in regulations, furnish to the Secretary the following information:

"(i) The amount allocated under subsection (b)(5) to goodwill or going concern value.

"(ii) Any modification of the amount described in clause (i).

"(iii) Any other information as the Secretary deems necessary to carry out the provisions of this paragraph."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 13334. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON NET OPERATING LOSS CARRYBACKS.

(a) REPEAL OF EXCEPTION FOR ACQUISITIONS OF SUBSIDIARIES.—Clause (ii) of section 172(m)(3)(B) (relating to exceptions) is amended to read as follows:

"(ii) EXCEPTION.—The term 'major stock acquisition' does not include a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by subsection (a) shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 13335. ISSUANCE OF DEBT OR STOCK IN SATISFACTION OF INDEBTEDNESS.

(a) ISSUANCE OF DEBT INSTRUMENT.—

(1) Subsection (e) of section 108 (relating to general rules for discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(11) INDEBTEDNESS SATISFIED BY ISSUANCE OF DEBT INSTRUMENT.—

(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of indebtedness, such debtor shall be treated as having satisfied the indebtedness with an amount of money equal to the issue price of such debt instrument.

(B) ISSUE PRICE.—For purposes of subparagraph (A), the issue price of any debt instrument shall be determined under sections 1273 and 1274. For purposes of the preceding sentence, section 1273(b)(4) shall be applied by reducing the stated redemption price of any instrument by the portion of such stated redemption price which is treated as interest for purposes of this chapter."

(2) Subsection (a) of section 1275 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) LIMITATION ON STOCK FOR DEBT EXCEPTION.—

(1) IN GENERAL.—Subparagraph (B) of section 108(e)(10) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN STOCK IN TITLE 11 CASES AND INSOLVENT DEBTORS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock of the debtor (other than disqualified stock)—

"(I) by a debtor in a title 11 case, or

"(II) by any other debtor but only to the extent such debtor is insolvent.

"(ii) DISQUALIFIED STOCK.—For purposes of clause (i), the term 'disqualified stock' means any stock with a stated redemption price if—

"(I) such stock has a fixed redemption date,

"(II) the issuer of such stock has the right to redeem such stock at one or more times, or

"(III) the holder of such stock has the right to require its redemption at one or more times."

(2) CONFORMING AMENDMENT.—Paragraph (8) of section 108(e) is amended by adding at the end thereof the following new sentence: "Any stock which is disqualified stock (as defined in paragraph (10)(B)(ii)) shall not be treated as stock for purposes of this paragraph."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to debt instruments issued, and stock transferred, after October 9, 1990, in satisfaction of any indebtedness.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any debt instrument issued, or stock transferred, in satisfaction of any indebtedness if such issuance or transfer (as the case may be)—

(A) is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before October 9, 1990,

(B) is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance or transfer,

(C) is pursuant to a tender or exchange offer filed with the Securities and Exchange Commission on or before October 9, 1990, or

(D) such acquisition is pursuant to an offer—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is subsequently filed with the Securities and Exchange Commission before January 1, 1991.

PART V—EMPLOYMENT TAX PROVISIONS

SEC. 13341. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

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

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.".

(b) EMPLOYMENT UNDER FICA.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

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

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4) of the Social Security Act) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.".

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

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

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after December 31, 1990.

SEC. 13342. EXTENSION OF SURTAX ON UNEMPLOYMENT TAX.

(a) GENERAL RULE.—Subsection (a) of section 3301 (relating to rate of unemployment tax) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) 6.2 percent in the case of calendar years before 1996, or

"(2) 6.0 percent in the case of calendar year 1996 and each calendar thereafter,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar years after 1990.

SEC. 13343. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit.".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

PART VI—MISCELLANEOUS PROVISIONS

SEC. 13351. SPECIAL RULES WHERE GRANTOR OF TRUST IS A FOREIGN PERSON.

(a) IN GENERAL.—Section 672 (relating to definitions and rules) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—

"(1) IN GENERAL.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any trust created after the date of the enactment of this Act, and

(2) any portion of a trust created on or before such date which is attributable to amounts contributed to the trust after such date.

SEC. 13352. RETURN REQUIREMENT WHERE CASH RECEIVED IN TRADE OR BUSINESS.

(a) CERTAIN MONETARY INSTRUMENTS TREATED AS CASH.—Subsection (d) of section 6050I (relating to returns relating to cash received in trade or business) is amended to read as follows:

"(d) CASH INCLUDES FOREIGN CURRENCY AND CERTAIN MONETARY INSTRUMENTS.—For purposes of this section, the term 'cash' includes—

"(1) foreign currency, and

"(2) to the extent provided in regulations prescribed by the Secretary, any monetary instrument (whether or not in bearer form) with a face amount of not more than $10,000.

Paragraph (2) shall not apply to any check drawn on the account of the writer in a financial institution referred to in subsection (c)(1)(B)."

(b) INCREASE IN PENALTY FOR INTENTIONAL DISREGARD OF REPORTING REQUIREMENT.—Paragraph (2) of section 6721(e) (relating to penalty for intentional disregard) is amended—

(1) by inserting "6050I," after "6050H," in subparagraph (A),

(2) by striking "or" at the end of subparagraph (A),

(3) by striking "and" at the end of subparagraph (B) and inserting "or", and

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of a return required to be filed under section 6050I(a) with respect to any transaction (or related transactions), the greater of—

"(i) $25,000, or

"(ii) the amount of cash (within the meaning of section 6050I(d)) received in such transaction (or related transactions) to the extent the amount of such cash does not exceed $100,000, and".

(c) CLARIFICATION OF APPLICATION OF PROVISION PROHIBITING EVASION TECHNIQUES.—The heading of subsection (f) of section 6050I is amended to read as follows:

"(f) STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.—".

(d) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study on the operation of section 6050I of the Internal Revenue Code of 1986. Such study shall include an examination of—

(1) the extent of compliance with the provisions of such section,

(2) the effectiveness of the penalties in ensuring compliance with the provisions of such section,

(3) methods to increase compliance with the provisions of such section and ways Form 8300 could be simplified, and

(4) appropriate methods to increase the usefulness and availability of information submitted under the provisions of such section.

Not later than March 31, 1991, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this subsection, together with such recommendations as he may deem advisable.

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to amounts received after the date of the enactment of this Act.

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

(3) Not later than June 1, 1991, the Secretary of the Treasury or his delegate shall prescribe regulations under section

6050I(dX2) of the Internal Revenue Code of 1986 (as amended by this section).

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The gentleman from Texas [Mr. ARCHER] will be recognized in opposition.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

(Mr. PICKLE asked and was given permission to revise and extend his remarks.)

Mr. PICKLE. Mr. Chairman, for the first time in many years this Congress is being asked to do something meaningful about our Nation's budget deficit and national debt. Along with the President, we have resolved to make a $500 billion reduction in the deficit over 5 years. This measure before us tonight will accomplish that purpose. In the midst of all of the controversy surrounding these budget deliberations, this bill is a clear declaration of our firm intention to make meaningful reductions in spending as well as raise necessary revenue in order to achieve our goal.

As one of its goals, this bill intends that the burden of deficit reduction will be borne in a fair and equitable manner among taxpayers. In order to accomplish that goal and also to ensure the progressivity of the tax system, the plan contains a number of provisions aimed at allocating a larger share of deficit reduction to this Nation's wealthiest taxpayers. These include measures to burst the bubble, raise the individual minimum tax from 21 to 25 percent, and to impose a 10-percent surtax on individuals with taxable incomes over $1 million. By adopting these measures, we are ensuring those taxpayers most able to contribute in our effort to reduce the Federal budget deficit will do so.

It also should be noted that this bill does not include any increase in gasoline or petroleum taxes—even on home heating oil. This bill does not impose any limitation on itemized deductions. It does not extend the Medicare hospital insurance tax to additional State and local government workers.

Most important of all, the bill reduces the Medicare Program by only $43 billion, instead of the $60 billion cut originally proposed in the budget summit agreement. This measure will protect Medicare beneficiaries by keeping monthly premiums low and limiting the increase in the deductible. At most, the reduction in payments to providers will reduce the rate of growth in a program which is growing faster than any other portion of our Federal budget. It is not inappropriate for us to consider measures to control these costs.

It is also important to point out that this measure continues to offer special assistance for rural hospitals. Over the 5 years of this budget plan, Medicare will finally eliminate the unfair differential which causes rural hospitals to be paid less for the same services than urban hospitals. We cannot assure every rural hospital that this budget will assure its survival, but this budget gives them real hope for the future.

Mr. Speaker, I am convinced that the only way we can make a real dent in the budget deficit is to take bold steps. It won't be easy, and it will require us all to make some tough decisions, but this Nation faces no more important problem than reducing the deficit. This situation scares the administration. It scares the Congress. But we must do something to deal with it.

I strongly urge passage of this alternative and this budget package, so that we can go to conference with the other body and work out a compromise that both Houses will agree to and that the President will sign.

Mr. Chairman, all America is looking at us today and the country expects action. A no vote means no budget. That is the long and the short of it.

We must do the responsible thing. America is already mad at us and they are going to be madder than an old wet hen if we do not do something today, and I think they are disgusted with what they see on television now.

Mr. Chairman, America expects us to pass a budget. We have that responsibility and we must act at this time.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

(Mr. ARCHER asked and was given permission to revise and extend his remarks.)

Mr. ARCHER. Mr. Chairman, I rise in opposition to the amendment, but I would like to begin by thanking the committee chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI] and his Democrat colleagues for putting this amendment before the House today.

You see, I voted for the initial summit agreement because I felt that it was the best bipartisan budget we could hope for in this Chamber. I took a tremendous amount of criticism back home, more than on any issue in my career in the Congress; but thanks to this amendment, I feel completely vindicated. This alternative is actually far worse than anything I could ever have imagined. It is a textbook example of Democrat economic philosophy. Forget spending restraint. Just say, "yes" to taxes.

The Rostenkowski amendment calls for some $180 billion of new taxes and fees, borne mostly by middle income families, because the Democrats refuse to do what the American people want, and that is cut spending.

The Republicans were not even permitted to offer an alternative because the Democrats demanded that it include massive new taxes on the working people of America. We refused to do that.

The Democrats once again, Mr. Chairman, have been unable to curb their appetite for Government spending. What is wrong with putting the Federal Government on a spending diet that will press for reducing waste and encourage efficiency?

I believe the American people want and deserve that we as their Congressmen implement means to live within our income; but the Democrats have carefully attempted to seduce Americans into believing that the Rostenkowski proposal cuts the deficit just by taxing the rich. They masquerade behind a tax the rich mask, attempting to deceive the working people in America. Behind that mask, the stark reality exists that they raise tax rates, not just for the rich, but on all families with joint incomes over $19,000 a year. They cut the personal tax exemption on every person, child and adult.

Their plan is without a doubt a hit on all single and family households. I suggest that all Americans examine the table printed by the Democrats themselves to support their tax on low income and middle income working Americans. I do not call that a good deal for working Americans.

President Bush has said that it you raise the rates on the higher income people, soon they will work down to the lower income people. I do not think he realized that "soon" was "now" in the Democrat package.

Mr. Chairman, the great irony in all this is that the American people are not calling for tax increases. They want us to cut spending, and the Democrat leadership responds by refusing even to allow a vote on the Republican spending reduction alternative, with no new tax burden on working Americans.

□ 1810

Are they really that afraid to give the Members of this body a choice? As a matter of fact, I guess they should be, because the Democratic alternative actually massively increases spending over the next 5 years—$570 billion increase in entitlement spending, $180 billion increase in nondefense discretionary spending. That is a $750 billion increase in spending over the next 5 years while at the same time they increases American workers' taxes and fees by some $180 billion.

When this process started, I was truly hopeful we could achieve a bipartisan solution to the awful deficit problems plaguing this Nation. But that is not very likely at this time.

Here we go again, tax and spend. I urge a no vote.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. ARCHER] has consumed 5 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. CARDIN].

(Mr. CARDIN asked and was given permission to revise and extend his remarks.)

Mr. CARDIN. Mr. Chairman, I want to thank my chairman, the gentleman from Illinois, for yielding me this time.

Make no mistake about it, a vote for ths particlar amendment, the vote for reconciliation is a vote whether we are serious about reducing the deficit of this country.

It is not popular to vote for new taxes, it is not popular to vote for spending cuts. But we need to do it. I first want to congratulate the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], for he was the one who really got us on this path with the "Rosti challenge." It was the first effort made to make us serious about reducing the deficit. The Democrats have brought forward a specific program; the Republicans have not. Ours is a specific program that incorporates many of the principles that I think the American people support.

We do not hit the Social Security recipients; we should not, we have protected that. We have taken the Social Security trust fund off the Gramm-Rudman calculation. That is where it should be.

But we really speak to the issue of fairness.

I think that is the most important part about the Democratic alternative.

We speak to the Medicare system and proper cuts. Yes, there are cuts in Medicare, some $40 billion. But we speak to the principle that the elderly should not have to pay more than 25 percent of the cost of the program.

We are able to maintain that in the Democratic alternative.

We speak to how we should pay for the deficit, that all Americans should contribute their fair share, that the wealthy should not be left off but should be paying about the same percentage as everyone else. The Democratic alternative speaks to that.

Mr. Chairman, the alternative we have before us speaks to the issue of fairness but, most importantly, speaks to the issue of deal with the deficit of this Nation.

The American people expect action. We have the opportunity today to do that by voting for this amendment and voting for the Reconciliation Act.

Mr. ARCHER. Mr. Chairman, I yield 5 minutes to the distinguished Republican leader of the House, the gentleman from Illinois [Mr. MICHEL].

(Mr. MICHEL asked and was given permission to revise and extend his remarks.)

Mr. MICHEL. Mr. Chairman and my colleagues, I rise in strong opposition to the proposal offered by my good friend, the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI]. The cold facts of politics put us on different sides of this issue, but my feelings of personal affection for him and my admiration for his ability remain as warm as ever.

What I have to say today is not directed at him. Instead, it is directed at a certain mood, an atmosphere that recently has been created by many of those in the majority. We cannot understand how really bad this proposal is unless we understand it in the context of that atmosphere.

In the last few weeks we have heard once again the ugly sound of economic McCarthyism. It bellows forth from the fever swamps of the left. It is the savage cry of class warfare.

To ordinary, middle-class Americans, that sound must be one of the most terrifying in the world. It is the sound of the liberals with their hands once again on the tax rates.

As the line from the horror movie goes, "Taxpayers, be afraid, be very afraid."

Let us just examine the most devasting tax increase contained in the package. The Democratic proposal reduces the tax benefits of the personal exemption by removing indexing for inflation. This will increase taxes on everyone except the wealthiest 1 million taxpayers in the country. This Democratic proposal brings back bracket creep with a vengeance, $5 billion, $6 billion, $7 billion.

Prior to the enactment fo the 1981 tax reduction bill, every taxpayer was subject to ever-increasing taxes through inflation. We stopped this in 1980, when we started indexing personal exemptions and tax brackets. By reversing this policy, Democrats would now return us to the silent rate increases for everyone.

The liberals have been telling us how much they want to sock it to the rich. It turns out their definition of rich is everyone who voted against Carter, Mondale, and Dukakis.

The policy of simply taxing the rich will not create one new job. But a policy that encourages savings and the accumulation of capital to invest in new enterpreneurial pursuits does create new jobs.

That is what we ought to be talking about here today.

And on the issue of fairness, the populists have been having a field day with their hot rhetoric, but when you cut through the well-orchestrated propaganda themes of the liberal Democrats, they are in fact simply calling for the redistributon of wealth.

Well, you cannot continually redistribute wealth if those who create it in the first place, with the sweat of their brows, are turned off from doing so because of bad tax policy.

Now, let me repeat a little bit of commonsense wisdom that all the deep thinkers in Washington appear to have forgotten:

The problem with the Federal deficit is not that the American people have been taxed too little but that those who run the Congress have been spending too much. It has been said that taxes are what we pay for civilized society. I agree. But excessive taxes are what the taxpayers pay for irresponsible congressional spending.

In the war against the deficit, the first strike, swift and hard, should be made against spending. That is the Republican way of doing things.

We tried compromise, and it failed. Both parties failed. Both leaderships failed. It is, in my view, a tragedy for this institution that the compromise could not be accepted.

So here we are with the stark contrast of party division unmistakably before us.

No Members on our side of the aisle should even consider voting for this plan. It is to budget deficit plans what Bart Simpson is to scholarship.

I would urge Members to vote down this proposition.

Mr. STUDDS. Mr. Chairman, I rise in strong support of the Democratic alternative to the budget reconciliation bill.

The Democratic plan will cut $500 billion off the deficit in 5 years. It is not painless, but it is fairer by far than any of the other proposals that have been made. The alternatives to it are inaction—which is irresponsible—or huge cuts in Medicare and Social Security—which are unconscionable.

Unlike the so-called "budget summit" proposal endorsed by the President and which I voted against, the Democratic bill does not raise the taxes of middle income people and let the wealthy off scot-free; it does not cut Medicare and let the Pentagon off scot-free; it does not tax gasoline and heating oil, and let the oil industry off scot-free.

Instead, it places the primary burden of reducing the deficit on those who received the greatest benefits from the misplaced priorities and misguided policies of the past decade. Under this plan, that primary burden is placed on those making more than $200,000 a year; under the summit proposal, that burden fell most harshly on older Americans and families making between $20,000 and $30,000 a year.

Is this a perfect proposal? Of course not. The fact is that our budget situation is so bad that there are no easy answers, no painless solutions. But if we're ever doing to dig ourselves out of the economic hole we're in, we've got to begin by cutting the deficit.

It is obvious from the events of the past few weeks that the President has neither the courage nor a plan, to reduce the deficit fairly or responsibly. Those representing the President's party in this House were offered a chance to develop their own proposal; and the majority looked deep down into their own souls and came up with nothing.

Let us not forget that the President and the Republicans entered the budget negotiations months ago with a proposal to reduce the taxes of the rich, cut Medicare and Social Security by $120 billion, and leave defense spending alone.

In other words, they have been asking us all year to respond to the mistakes of the past decade by making those mistakes all over again.

Well, I think the American people deserve better than that. Older Americans deserve more dignity and security than that. Taxpayers deserve more fairness than that. And our children deserve more backbone and vision from their leaders than that.

A vote for the Democratic proposal is a vote to end once and for all the trickle-down, voodoo economic, supply-side, Reagan-Bush-Quayle-Sununu, let-them-eat-cake, help the big guy and to heck with the little guy arrogance that has bankrupted our country and led us through a decade of self-indulgence to the brink of economic catastrophe.

A vote for the Democratic plan is a vote that says no to policies that have resulted in the largest transfer of wealth from poor and middle-income families to the rich in the history of our Nation.

A vote for the Democratic plan is a vote to end the gutless dithering and blithering both in the White House and on Capitol Hill that has transformed America from the world's largest creditor to the world's largest debtor in less than a decade.

Finally, a vote for this bill is a vote to take the first step back from economic collapse and the first step toward economic recovery.

Our vote today marks the beginning of what must be a long-term struggle to reverse the mistakes of the past 10 years; to reclaim our Nation's independence from foreign creditors; to reinvest in our Nation's future; to restore optimism to our young and peace of mind to our old; and to recreate throughout our system of government the basic sense of decency and fair play that has long characterized American democracy.

If we truly want a kinder, gentler America; not to mention a more solvent and equitable America; we must adopt the Democratic budget plan today.

Mr. KANJORSKI. Mr. Chairman, it has certainly taken a long time, and we are not out of the woods yet by any stretch of the imagination, but at last we are finally operating in a more sensible and responsible manner here today.

We have finally slammed the door on the misconceived budget summit approach to solving our deficit problems. Rather than being presented with a take-it-or-leave-it package that gouges senior citizens, the unemployed, and low and middle income working families, we have before us a proposal that individual Members of Congress have had a hand in drafting.

While we still quarrel over specific items in this new plan, and while I am sure that this plan is not exactly what any one of us would have drafted on our own, it is nevertheless a proposal developed by the Congress and not by an oligarchy of the President and congressional leadership.

No less important, Mr. Chairman, the options we have before us today offer us a much clearer choice on one of the most fundamental philosophical questions before this country. Are we going to continue the failed policies of the 1980's—the failed policies under which the wealthy have been given a free ride, the failed policies under which this Government has told the richest Americans that they have no obligation to fairly share in the burdens of addressing the needs of their fellow citizens and the nation, the failed policies under which the gap between the wealthiest and the poorest has become a yawning chasm into which middle income citizens are fast disappearing?

Or, are we instead going to finally stand up and say enough is enough? The cold, hard truth is that in the 1980's we lost sight of what this country is supported to be all about. Somehow too many people forgot some of the most important principles we are supposed to represent as a nation and as a society.

Today, however, we have the opportunity to restore some balance to the system. We have the opportunity to tell the American people that things do not have to continue on this way.

Mr. Chairman, once we put aside all of the numbers we have been debating, we ultimately come down to confronting one basic philosophical question. It is a question we have put off answering for too long, but at least it is not too late.

I know how I will answer the question. I plan to vote for the Democratic alternative to the budget. It is fair, it gets the job done, and it turns us away from the disastrous path our Nation is careening down.

Having said all that, however, I must point out to my colleagues, and particularly to the American people, that we are all living in a fool's paradise if we think thay any of these budget packages are really going to bring the deficit down as much as they suggest. They simply cannot, and they will not.

All these packages are based on fundamentally flawed economic assumptions about what is going to happen next year and over the next 5 years. They are based on unrealistically optimistic assumptions about interest rates, unemployment, and the future of our economy.

I am convinced that our economic problems are more serious than either the President or the leadership have acknowledged, and that none of the proposals which have been made will actually reduce the deficit as much as they claim.

I predict that in less than a year we will be back where we are today; considering further legislation to cut the deficit because the recession we are now entering has played havoc with our economic assumptions.

The President and the budget summiteers predict that budget cuts of this magnitude will reduce inflation from 5.2 percent in 1990 to 4.6 percent in 1991 and 2.8 percent in 1995. They further predict that the interest rate on 91-day Treasury bills will drop from 7.7 percent this year to 7.2 percent next year and 4.2 percent in 1995, and that real GNP growth will be .7 percent in 1990, 1.3 percent in 1991 and 3.5 percent in 1995.

I have a nice piece of swampland in Florida I would like to sell to anyone who believes these predictions are accurate.

One only has to look at the impact of the recent increase in energy prices to recognize that these assumptions are unrealistic. If the August inflation figures are any indicator, next year's inflation rate will sour to double digits, not go down.

Unemployment is also expected to increase as the recession deepens. This will further increase spending, decrease revenues, and increase the deficit.

The consensus of a blue chip group of private sector economists is that these economic assumptions for 1995 underestimate inflation by 40 percent, underestimate Treasury interest rates by 62 percent, and overestimate real GNP growth by 35 percent.

We are kidding ourselves and misleading the American public if we do not make it crystal clear that the economic assumptions underpinning all these proposals are what we hope will happen, but not necessarily what is likely to happen. The data of the private sector economists suggests that these wishes will not become reality.

Nonetheless, the fact that this and other budget packages are based on rosy estimates of our economic situation should not paralyze us. Our deficit problems are so great that we must start work on them today. Every day we delay acting only costs us hundreds of millions of dollars in additional interest costs. Furthermore, even for the Federal Government, $500 billion in deficit reduction is real money.

I outlined the package I would have preferred to have voted for on October 4, 1990,

when we considered the first budget summit package. My package would have cut foreign aid and unnecessary subsidy programs more, and would not have cut Medicare or unemployment benefits. My package would have imposed taxes on the windfall profits of the multinational oil companies, instead of middle-class taxpayers.

The Democratic alternative package we consider today does not adopt all of the recommendations I made on October 4, 1990. But it does adopt many of these recommendations and it is a substantial improvement over the first summit package prepared by the President and the leadership.

Among the major improvements of the Democratic package over the earlier package are:

The new Democratic package eliminates the major increase in Medicare premiums contained in the President's original budget package. It also reduces by two-thirds the increase in the Medicare deductible. As a result, this package, unlike the one the President urged us to adopt a week ago, has the support of the National Committee to Preserve Social Security and Medicare, the National Council of Senior Citizens, the Seniors Coalition, and the Save Our Security Coalition. The American Association of Retired Persons calls this "a fair and effective proposal."

The new Democratic package eliminates the 2-week waiting period for unemployment benefits contained in the President's endorsed budget package. A 2-week wait would have been a cruel trick to play on the families of American workers when we are heading into a recession.

The new Democratic package eliminates the regressive 12-cent-per-gallon increases in the gas tax and the 2-cent-per-gallon tax on home heating oil contained in the President's original summit package. These tax increases would have hit low and middle income families hardest.

The new package increases taxes primarily on those who have an ability to pay, rather than on average working families. The President's original package would have turned the tax code upside down. Low and middle income taxpayers would have born the brunt of the tax increase under the President's package, while the affluent would have escaped virtually scot-free. The following chart demonstrates how much more progressive the new Democratic alternative is than either the President's original budget package or the plan adopted by the Senate Finance Committee:

PERCENT CHANGES IN FEDERAL TAXES BY INCOME

Adjusted gross income (in thousands)	Less than 10	10 to 20	20 to 30	30 to 40	40 to 50	50 to 75	75 to 100	100 to 200	Over 200
President's summit plan	7.6	1.9	3.3	2.9	2.9	1.8	2.1	1.9	1.7
Senate Finance Committee plan	0.0	−2.3	2.7	2.8	2.8	1.9	2.5	3.5	3.7
House Democratic alternative plan	−1.3	−1.6	1.0	1.0	.8	1.4	1.5	.7	7.4

Source: Joint Committee on Taxation.

The new Democratic package eliminates a loophole in the existing Tax Code known as "the bubble" which enables taxpayers earning over $150,000 to pay a lower effective tax rate than taxpayers earning under $150,000.

The new Democratic package reduces the increase in taxes on alcoholic beverages, which are also regressive.

The new Democratic package targets capital gains tax relief to middle-income families and small businesses. Every taxpayer would be allowed a lifetime exclusion of 50 percent of the first $200,000 in capital gains on farms, homes, and small businesses. In other words, if an individual purchased a home, farm or small business for $50,000 and later sold it for $250,000—a 500-percent increase—they would pay taxes on only $100,000 of their capital gain, instead of the full $200,000 again. In addition, in order to encourage investment in our economy, taxpayers would be allowed to exclude the first $1,000 in capital gains on stock they earned each year. The President's original plan would have targeted capital gains tax relief to the richest 2 percent of Americans, the Democratic alternative targets it to average families, farmers, and small businesses.

Mr. Chairman, like most Americans, I wish it was possible to adopt a budget package which did not raise any new revenues. Unfortunately, our deficit problem is so serious today that it is simply not possible to achieve this level of deficit reduction without either revenue increases or cuts in programs like Social Security which the American people do not want.

Some of my constituents have asked me, "Why can't we cut foreign aid?" I believe we can cut foreign aid, I have voted to cut foreign aid, and I have led the effort in the Congress to eliminate the duplicative and unnecessary foreign aid bureaucracy known as the National Endowment for Democracy.

The simple fact is that the President has repeatedly asked the Congress to increase, rather than decrease, spending for foreign aid. Most recently he asked us to forgive over $7 billion in loans to Egypt. Even more importantly, however, even if we eliminated all foreign aid spending that would only reduce the deficit by about one-fifth of the amount of this alternative package. Foreign aid can and should be cut, but it is still only a drop in the bucket of what we must cut.

Mr. Chairman, the message of the last several weeks is clear. The American people are mad, they are disgusted that the Congress and the President cannot get their acts together and solve this problem, and they are losing faith in their system of government.

Frankly, they have a right to be upset. They have a right to be angry at a President who goes off campaigning when he should be here in Washington using his leadership to help forge a budget agreement.

They have a right to be angry at at President who professes to be for a balanced budget but who, along with his predecessor, failed for more than 10 straight years to actually send a balanced budget to the Congress, and who failed to send his proposed budget to the Congress on time.

They also have a right to be angry at a Congress which allowed itself to be bamboozled into turning over its constitutional responsibilities to a secret group of budget summiteers. That is why the President's budget summit failed, why its recommendations were rejected by the Congress and the public.

They have a right to be angry at a Congress which does not act on appropriations bills on time. While the House passed 10 of the 13 regular appropriations bills more than 3 months before the start of the new fiscal year, the Senate had not passed any by that date and even by the start of the fiscal year it had only passed 4 of the 13 bills.

They have a right to be angry at a President who continues to rely on "blue smoke and mirror" accounting gimmicks and who changes his position on the budget more often than he changes his clothes.

They have a rigbt to be angry at a Congress that seems to be endlessly tied up in partisan wrangling that fails to confront our problems head on.

They have a right to be angry at a President who continues to press for tax cuts for the affluent while substantially raising taxes for working families and slashing Medicare by $60 billion.

They have a right to be angry at a President who wastes millions of dollars by ordering a foolish weekend shutdown of the Federal Government.

They have a right to be angry at House Republicans who cannot decide what they are for. They will not support the President's budget. They will not support the Democratic alternative, and they cannot agree on their own proposal to reduce the deficit by $500 billion over 5 years. They are the "Abominable No Men" who are against everything and for nothing. Even the Senate Republicans were able to draft a budget package.

But Mr. Chairman, the American people are not interested in playing, "The Blame Game." They want a budget and a deficit reduction package, and they want them now.

They deserve a budget, and they deserve it now, and that is why I will support this package. Even though it is not perfect, and even though it does not do everything I would like, it is nonetheless, vastly fairer than any of the alternatives and it deserves our support.

Mr. Chairman, we live in a democracy and the process of democracy requires compromise. Even more importantly, however, it requires that we govern.

We cannot stick our heads in the sand. We cannot ignore what others want. We cannot shirk our responsibilities. We must exercise leadership. We must make the tough choices. We must compromise, and we must govern. This is true for both the President and the Congress.

This bill makes those choices and lives up to those responsibilities. It may not be perfect but it is by far the best proposal we have seen all year.

It deserves our support so that we can put an end to the chaos which has surrounded our budget process.

Mr. GREEN of New York. Mr. Chairman, I rise today to express my deep concern that the proposed Rostenkowski II budget reconciliation package fails to do the job that we, in Congress, had hoped to do. The package does make the necessary Federal deficit cuts, but it does so at the expense of those least able to foot the bill.

To begin with, a significant yet little-noticed provision of the Rostenkowski package would drop the indexing of "brackets"—the point at which one moves from the 0-percent bracket to the 15-percent bracket, from the 15-percent bracket to the 28-percent bracket, et-cetera—for 1 year. Under indexing, the brackets are adjusted upward each year by an amount

equal to the increase in the Consumer Price Index. The purpose is to prevent lower income households from being thrust by inflation into the 15-percent bracket intended for middle income taxpayers, and similarly to prevent moderate income taxpayers from being thrust into the brackets intended for higher income taxpayers.

Dropping the indexing of brackets, upon first glance, might be thought to eliminate working peoples' tax cushion against inflation only for 1 year. In fact, it does much more than that. Indeed, perhaps the most egregious element of dropping bracket indexing is its permanence. Like the suspension of a cost-of-living-adjustment [COLA] increase, the effect is everlasting. If a senior citizen, for example, failed to receive his 5 percent COLA this year, even though his living costs increased by 5 percent, next year, when the COLA was resumed, his total income still would remain below the adjusted inflationary level. Similarly even if indexing should be restored a year from now, the brackets would forever be some 5 percent below where they should be. Although the Rostenkowski plan is billed as a "soak the rich" program, its suspension of indexing of the brackets is aimed straight at low and moderate income taxpayers forever.

Once the Democratic Party starts down the primrose path of omitting indexing, the days of indexing are clearly numbered. Obviously, the Democrats would love to eliminate indexing and allow inflation to raise taxes without their having to vote for it.

Equally disconcerting to me is the Rostenkowski plan's failure to include a Federal tax increase on gasoline prices paid at the pump. For 10 years, I have supported such an increase for a variety of reasons. First, an increase in the Federal tax on gasoline would be good energy conservation policy. The current situation in the Middle East demonstrates just how important it is for the United States to have in place an energy conservation policy. Higher gasoline prices will discourage people from taking unnecessary road trips and will encourage them instead to drive their cars prudently. Although an increase in the Federal gas tax is only a partial solution to our problem, it is a step in the right direction. Second, an increase in the Federal tax on gasoline is good environmental policy. Fewer automobiles spewing fewer pollutants into our air means cleaner air.

It is for those reason, Mr. Chairman, that I regretfully must oppose the Rostenkowski II budget reconciliation package.

Mrs. LLOYD. Mr. Chairman, I rise in favor of the alternative offered by Chairman ROSTENKOWSKI on behalf of the Ways and Means Committee, to the Omnibus Reconciliation Act.

This legislation is necessary to implement the savings in direct spending programs and revenue increases called for by the President and congressional leaders contained in the budget resolution recently adopted by the House and Senate. The total dollar amounts for spending reductions and revenue increases have already been agreed upon—its now our job to see that the burden of deficit reduction is distributed as fairly and equitably as possible among all Americans. I support the Rostenkowski alternative, as a substitute for the tax and Medicare provisions of the bill, because it fits this criteria.

I know this agreement is not perfect, but I feel the process should move forward. If we do not enact a responsible deficit reduction package, the consequences will be far worse for the Nation. Across-the-board spending cuts are once again looming on the horizon and will occur should a sound deficit reduction package not be put in place.

Equity and fairness are the hallmarks of the Rostenkowski alternative. It provides substantive deficit reduction, $500 billion over the next 5 years, but does so in a fair manner—particularly to middle income Americans. It provides a good stimulus for economic growth and significantly improves on the budget-summit agreement in many ways.

The Medicare deductible increase is reduced by almost two-thirds, from $28 billion to $10 billion—keeping faith with older and disabled Americans.

Several revenue provisions are dropped entirely, including the increase in the gas tax, the new tax on petroleum fuels, the extension of the Medicare payroll tax to additional State and local government employees, the limitation on itemized deductions, the increase in railroad tier II taxes and the 2 week waiting period for unemployment benefits.

Provisions are provided designed to raise revenue in a more progressive manner, including elimination of the bubble in the Tax Code, creation of a 10-percent surtax on income above $1 million, increases in the minimum tax rate and in the amount of salary subject to the Medicare payroll tax, and a 1-year delay in tax indexation.

A limited tax break for capital gains is provided, allowing taxpayers to exclude up to $100,000 in capital gains over their lifetime.

The earned income tax credit for the working poor is increased—the refundable tax credit presently available to low-income working families with dependent children.

The Rostenkowski alternative represents tax fairness and real deficit reduction and will move our Nation toward a solid, growth-oriented economic track. It is a comprehensive and responsible package which provides savings and investment incentives to the small businessmen, farmers, and small investors who are the backbone of our economy. Its enactment will be a major step forward for our Nation, restoring fairness to our Tax Code and confidence abroad.

I urge its adoption.

Mr. GEPHARDT. Mr. Chairman, I think today is a very important day and I think this vote is a very important vote. This is a vote on which we can begin to turn the corner on the deficit problem that has bedeviled our country in the last 10 years, and especially in the last 12 months. It is a day when we can begin to rebuild the trust of the American people that we as an institution, as Representatives, have the ability to address this problem head-on and do something about it that is solid, do something about it that is fair, do something about it that is right.

The change began 5 months ago when our President said that we needed a budget summit. I admire what he said. It took courage.

He said the problem cannot be solved by inaction.

He said we need an agreement that will erase this problem for 5 years to come, and he said that we need to work together to get rid of the problem. We are not going to grow our way out of it. It is not going to evaporate because of some supply side theory. We have got to get together to do something about it.

Then in July, he said there have to be spending cuts, tax revenue increases, growth initiatives, and enforcement measures to make it stick. That was hard for the President to do. He had to go back on his "read my lips" statement at the Republican Convention, but he did, I am sure, because he believed it was the right thing for the country to do.

The bipartisan leadership, Republican and Democrat, said, "We agree. We ought to do all of those things to solve the deficit problem."

So the question tonight is not whether we need a plan of $500 billion, not whether there will be spending cuts and revenue increases. The question is, who will pay?

I was at home over the weekend. People were angry about the budget summit deal. One man came up to me and he said, "Here we go again. We in the middle class pay and the rich play."

Another woman came up to me and she said, "You know, we are going to have to pay the beer tax and the cigarette tax and the gasoline tax, and you are here to tell me that people who earn $200,000 a year aren't going to have a larger increase in their taxes?"

You bet people are angry. The middle class is angry, and it is not envy. It is not class warfare. In this great country, everybody has always believed that if you work hard you can get ahead, but they have also believed that everybody has got to pay their fair share.

Jack Kennedy said it right when he said, "To those to whom much is given, much is expected." The American people believe that, and the plan that Chairman ROSTENKOWSKI has given us enacts that. It says that people at the top should have the highest rate. Does that not make sense? Is that not just common sense, that people at the top should have the highest rate?

His plan says that millionaires, people who have a million dollars in taxable income after the itemized deductions are taken out and after all the adjustments, should have a 10-percent surtax. That just adds another 2½ percent to their overall rate. I think it makes sense.

So tonight, Mr. Chairman and ladies and gentlemen, we have a chance to do what is right, to do a $500 billion package, to make it a fair package that asks everybody in proportion to what they made to pay what they can and should pay.

I had a friend of mine call me the other day, in fact yesterday, one of the wealthiest people in the country. You would all know his name. He said, "DICK, I am embarrassed that you are not asking me and those like me to pay my fair share. I am ready to do it."

The Rostenkowski plan asks him to do it. He should be asked to do it, and I ask for your vote tonight for what is right and fair and solid and will put this country in the right direction.

Mr. ROSTENKOWSKI. Mr. Chairman, it is with great pleasure that I rise in strong support of the Ways and Means Democratic alternative. In the months and years that I have been campaigning to increase revenues as part of a serious deficit reduction plan, I have stressed the need for tough decisions that would inevitably be painful for everyone concerned.

And I have acknowledged that our political system has always been very reticent about embracing policies that will impose new burdens on our constituents. Unfortunately, too many of us have believed the pollsters' warning that higher taxes are the political kiss of death. Today, we finally have an opportunity to shatter that myth and be honest with the American people—and with ourselves.

We have a chance to escape from the budget swamp and move forward.

When I unveiled the Rostenkowski challenge in March of this year, I suggested that a $500 billion deficit reduction over 5 years was an appropriate goal. Today, to both my delight and surprise, we are on the verge of achieving that goal. Today's debate is about who will pay.

When I first put forth my plan, I emphasized the need for shared sacrifice. Fairness demands that everyone who can afford to make a contribution to deficit reduction be required to do so. The wealthy, who have more, should appropriately be asked to contribute more. These time-honored principles are contained in the amendment we are presenting today.

When I outlined my priorities last March, I stressed the need to protect the structure of our tax system and avoid making any specific group a target. I warned that it would be wrong to ask specific geographic areas to be the designated scapegoats in this debate. The plan we are now debating has a national impact.

It is both credible and responsible—fully achieving the $194 billion in deficit reduction that the Committee on Ways and Means was assigned. Achieving this goal was not easy. Achieving it in a fair fashion was a major challenge. But we have met that challenge.

Last March, I suggested a reversal of the political philosophy that drove too many of our decisions during the 1980's. We borrowed excessively to finance the Government and decided to let our children pay the bills later. Our legacy to the next generation is

nothing less than a multibillion-dollar IOU.

What we are doing today is getting our house in order, putting ourselves in a position where we can invest in the future rather than fighting over how to pay for the past. Our vote today is an important first step toward reordering our priorities.

I participated in the budget summit earlier this year and view it as a partial success. It set credible goals, but achieved them with such harsh policy choices that this House could not accept them. Clearly, equity was a major victim of the summit agreement. It simply asked low- and middle-income taxpayers—and Medicare beneficiaries—to pay too much.

Today, equity and fairness make a comeback. And regular order makes a comeback as well. For when we embrace this Democratic alternative, we are telling the Nation that we are again ready, however belatedly, to govern—responsibly and fairly.

We are saying to the millions of Americans who hold their Government in disrepute that we hear them, that we are ready to do our job as their elected representatives.

At last, we will reclaim our right—and responsibility—to govern. We will provide the honesty that our constituents expect and demand of us.

As both policy and procedure, the Democratic alternative stands head and shoulders above any other option. It reduces the deficit, but does so in a way that is fair, particularly to middle-income Americans.

I reluctantly supported the budget summit agreement. But I enthusiastically back this proposal. It is better in so many ways.

It eliminates the 2-week waiting period for unemployment benefits. Our need to balance the budget does not give us the right to pick on people who are already down.

Our alternative reduces the added burden on Medicare beneficiaries by $17 billion, so that they are not asked to carry an unfair share of the load.

It eliminates the gasoline and petroleum tax increases that would have been onerous to those Americans who depend on their automobiles and heat their homes with oil.

It drops the proposed limits on itemized deductions that would have imposed restrictions on millions of Americans in some States, while having no impact on those who live elsewhere.

And it provides new incentives for middle-income Americans that will encourage savings and investment.

Our alternative accomplishes all this while also making our tax system more progressive. We have returned to a basic principle of tax fairness—that people should be taxed according to their ability to pay. Simply stated, that means that high-income people should pay more than low-income people do.

Let us be absolutely clear about what has occurred. During the last decade, incomes of the rich and famous soared while those of low- and middle-income people stagnated. Government policy encouraged this trend rather than correcting it. That is not my idea of the appropriate role for a government that is supposed to serve all the people.

In developing the Democratic alternative, we have again proven that it is possible to do well while doing good. Our plan represents good policy—and good policy is good politics.

Our alternative is bold, but it is fair enough to win broad public acceptance. That is why it is so popular with the American people. And that is why it deserves support from all of us—on both sides of the aisle.

I got into politics nearly four decades ago because I wanted to help create a better America for my constituents and for the next generation. I believe that a responsible Government can be a strong positive force in our society.

Passing this amendment sends a clear message. It says that Government will be a positive force for responsible budgeting and fair taxation.

It says that we can reduce the deficit, increase fairness, and restore confidence in the international financial community.

It says that our children will inherit something more than the enormous debts of the current generation.

Approval of our alternative will be a proud moment for this House. We will be able to look the American people squarely in the eye and say that we have governed responsibly and fairly.

And to each other we can at long last say that we have done our jobs.

I urge all my colleagues to give strong support to the Democratic alternative.

□ 1930

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 192, not voting 3, as follows:

[Roll No. 474]

AYES—238

Ackerman	Bonior	Clarke	Dellums	Kleczka	Poshard		
Alexander	Borski	Clay	Derrick	Kostmayer	Price		
Anderson	Boucher	Clement	Dicks	LaFalce	Rahall		
Andrews	Boxer	Coleman (TX)	Dingell	Lancaster	Rangel		
Anthony	Brooks	Collins	Dixon	Lantos	Ray		
Aspin	Browder	Conte	Donnelly	Leach (IA)	Richardson		
Atkins	Brown (CA)	Conyers	Dorgan (ND)	Lehman (CA)	Roe		
AuCoin	Bruce	Cooper	Downey	Lehman (FL)	Rose		
Bates	Bryant	Costello	Durbin	Levin (MI)	Rostenkowski		
Beilenson	Bustamante	Coyne	Dwyer	Levine (CA)	Rowland (GA)		
Bennett	Byron	Crockett	Dymally	Lewis (GA)	Roybal		
Berman	Cardin	Darden	Early	Lipinski	Russo		
Bevill	Carper	Davis	Eckart	Lloyd	Sabo		
Boehlert	Carr	de la Garza	Edwards (CA)	Lowey (NY)	Sawyer		
Boggs	Chapman	DeFazio	Engel	Lukén, Thomas	Scheuer		
			English	Manton	Schroeder		
			Erdreich	Markey	Schumer		
			Espy	Martinez	Serrano		
			Evans	Matsui	Sharp		
			Fascell	Mavroules	Sikorski		
			Fazio	Mazzoli	Sisisky		
			Feighan	McCloskey	Skaggs		
			Fish	McCurdy	Skelton		
			Flake	McDermott	Slattery		
			Flippo	McGrath	Slaughter (NY)		
			Foglietta	McHugh	Smith (FL)		
			Ford (MI)	McMillen (MD)	Smith (IA)		
			Ford (TN)	McNulty	Smith (VT)		
			Frank	Mfume	Solarz		
			Frost	Miller (CA)	Spratt		
			Gejdenson	Mineta	Staggers		
			Gephardt	Mink	Stark		
			Gibbons	Moakley	Stenholm		
			Glickman	Molinari	Stokes		
			Gonzalez	Mollohan	Studds		
			Gordon	Montgomery	Swift		
			Gray	Moody	Synar		
			Guarini	Morella	Tallon		
			Hall (OH)	Morrison (CT)	Tanner		
			Hamilton	Mrazek	Thomas (GA)		
			Harris	Murphy	Torres		
			Hatcher	Murtha	Torricelli		
			Hawkins	Nagle	Towns		
			Hayes (IL)	Natcher	Traxler		
			Hefner	Neal (MA)	Udall		
			Hertel	Neal (NC)	Unsoeld		
			Hoagland	Nelson	Valentine		
			Hochbrueckner	Nowak	Vento		
			Horton	Oakar	Visclosky		
			Hoyer	Oberstar	Volkmer		
			Huckaby	Obey	Walgren		
			Hughes	Olin	Washington		
			Hutto	Ortiz	Watkins		
			Jacobs	Owens (NY)	Waxman		
			Jenkins	Owens (UT)	Weiss		
			Johnson (SD)	Panetta	Wheat		
			Johnston	Parker	Whitten		
			Jones (NC)	Payne (NJ)	Williams		
			Jontz	Payne (VA)	Wilson		
			Kanjorski	Pease	Wise		
			Kaptur	Pelosi	Wolpe		
			Kastenmeier	Penny	Wyden		
			Kennedy	Perkins	Yates		
			Kennelly	Pickett			
			Kildee	Pickle			

NOES—192

Annunzio	Cox	Hall (TX)					
Applegate	Craig	Hammerschmidt					
Archer	Crane	Hancock					
Armey	Dannemeyer	Hansen					
Baker	DeLay	Hastert					
Ballenger	DeWine	Hayes (LA)					
Barnard	Dickinson	Hefley					
Bartlett	Dornan (CA)	Henry					
Barton	Douglas	Herger					
Bateman	Dreier	Hiler					
Bentley	Duncan	Holloway					
Bereuter	Dyson	Hopkins					
Bilbray	Edwards (OK)	Houghton					
Bilirakis	Emerson	Hubbard					
Bliley	Fawell	Hunter					
Bosco	Fields	Hyde					
Broomfield	Frenzel	Inhofe					
Brown (CO)	Gallegly	Ireland					
Buechner	Gallo	James					
Bunning	Gaydos	Johnson (CT)					
Burton	Gekas	Jones (GA)					
Callahan	Geren	Kasich					
Campbell (CA)	Gillmor	Kolbe					
Campbell (CO)	Gilman	Kolter					
Chandler	Gingrich	Kyl					
Clinger	Goodling	Lagomarsino					
Coble	Goss	Laughlin					
Coleman (MO)	Gradison	Leath (TX)					
Combest	Grandy	Lent					
Condit	Grant	Lewis (CA)					
Coughlin	Green	Lewis (FL)					
Courter	Gunderson	Lightfoot					

Livingston	Quillen	Smith (TX)
Long	Ravenel	Smith, Denny (OR)
Lowery (CA)	Regula	Smith, Robert (NH)
Lukens, Donald	Rhodes	Smith, Robert (OR)
Machtley	Ridge	Snowe
Madigan	Rinaldo	Solomon
Marlenee	Ritter	Spence
Martin (IL)	Roberts	Stallings
Martin (NY)	Robinson	Stangeland
McCandless	Rogers	Stearns
McCollum	Rohrabacher	Stump
McCrery	Ros-Lehtinen	Sundquist
McDade	Roth	Tauke
McEwen	Roukema	Tauzin
McMillan (NC)	Saiki	Taylor
Meyers	Sangmeister	Thomas (WY)
Michel	Sarpalius	Traficant
Miller (OH)	Savage	Upton
Miller (WA)	Saxton	Vander Jagt
Moorhead	Schaefer	Vucanovich
Morrison (WA)	Schiff	Walker
Myers	Schneider	Walsh
Nielson	Schuette	Weber
Oxley	Schulze	Weldon
Packard	Sensenbrenner	Whittaker
Pallone	Shaw	Wolf
Parris	Shays	Wylie
Pashayan	Shumway	Yatron
Patterson	Shuster	Young (AK)
Paxon	Skeen	Young (FL)
Petri	Slaughter (VA)	
Porter	Smith (NE)	
Pursell	Smith (NJ)	

NOT VOTING—3

Brennan	Rowland (CT)	Thomas (CA)

□ 1956

So the amendments en bloc were agreed to.

The result of the vote was announced as above recorded.

□ 2000

The CHAIRMAN. It is now in order to consider the amendments en bloc offered by the gentleman from California [Mr. PANETTA].

AMENDMENTS EN BLOC OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. PANETTA: Strike the following provisions of the bill (and redesignate accordingly):

Subtitle D of title I.
Subtitle E of title II.
Section 3008 of title III.
Section 3101, 3102(a), and 3111 of title III.
Paragraphs (5) through (11) of section 3201(a).
Subtitle D of title III.
Subtitle E of title III.
Section 4521 of title IV.
Subtitle E of title V.
Subtitle F of title V.
Section 7104 of title VII.
Section 7105 of title VII.
Section 7106 of title VII.
Subtitle C of title VII.
Subtitle A, section 9121, 9122, and 9123 of subtitle B, subtitles D and E, and section 9502 of subtitle F of title IX.
Subtitle F of title XII.
Sections 13322(b) and 13326 of title XIII.

Section 9501(b) of title IX is amended by inserting after paragraph (2) the following:

Fees and charges assessed pursuant to this section shall be in addition to any other fees and charges the Environmental Protection Agency collects but for the enactment of this section.

Title IX is amended by inserting before subtitle B the following:

Subtitle A—Sense Of The House Of Representatives

SEC. 9001. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that, if any Senate amendment to H.R. 5835 provides for any increase in motor fuel excise taxes or aviation taxes that would be deposited in the Highway Trust Fund or Aviation Trust Fund, respectively, then the managers on the part of the House for the conference on the reconciliation bill should consider provisions which ensure that a amount equal to the estimated tax payments from any such increases enacted shall be made available in the fiscal year collected for highway and aviation purposes, respectively. Such provisions may include provisions similar to those included in the reconciliation submission of the Committee on Public Works and Transportation, dated October 12, 1990, to the Committee on the Budget.

At the end of the table of contents of title XII, add the following:

SUBTITLE H—HUMAN RESOURCE AMENDMENTS

Sec. 12701. Short title; amendment of Social Security Act.

PART 1—CHILD SUPPORT ENFORCEMENT

Sec. 12711. Extension of IRS intercept for non-AFDC families.
Sec. 12712. Extension of Commission on Interstate Child Support.

PART 2—UNEMPLOYMENT COMPENSATION

Sec. 12721. "Reed Act" provisions made permanent.
Sec. 12722. Prohibition against collateral estoppel.

PART 3—SUPPLEMENTAL SECURITY INCOME

Sec. 12731. Exclusion from income and resources of victims' compensation payments.
Sec. 12732. Attainment of age 65 not to serve as basis for termination of eligibility under section 1619(b).
Sec. 12733. Exclusion from income of impairment-related work expenses.
Sec. 12734. Treatment of royalties and honoraria as earned income.
Sec. 12735. Certain State relocation and assistance excluded from SSI income and resources.
Sec. 12736. Evaluation of child's disability by pediatrician or other qualified specialist.
Sec. 12737. Reimbursement for vocational rehabilitation services furnished during certain months of nonpayment of supplemental security income benefits.

PART 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 12741. Optional monthyly reporting and retrospective budgeting.
Sec. 12742. Children receiving foster care maintenance payments or adoption assistance payments not treated as member of family unit for purposes of determining eligibility for, or amount of, AFDC benefit.
Sec. 12743. Elimination of term "legal guardian".
Sec. 12744. Reporting of child abuse and neglect.
Sec. 12745. Disclosure of information about AFDC applicants and recipients authorized for purposes directly connected to State foster care and adoption assistance programs.
Sec. 12746. Repatriation.
Sec. 12747. Technical amendments to National Commission on Children.

PART 5—CHILD WELFARE AND FOSTER CARE

Sec. 12751. Accounting for administrative costs.
Sec. 12752. Section 427 triennial reviews.
Sec. 12753. Extension of services under the independent living program.

SUBTITLE I—OLD-AGE, SURVIVORS, AND DISABLITY INSURANCE

Sec. 12801. Continuation of disability benefits during appeal.
Sec. 12802. Repeal of special disability standard for widows and widowers.
Sec. 12803. Dependency requirements applicable to a child adopted by a surviving spouse.
Sec. 12804. Entitlement to benefits of deemed spouse and legal spouse.
Sec. 12805. Representative payee reforms.
Sec. 12806. Fees for representation of claimants in administrative proceedings.
Sec. 12807. Notice requirements.
Sec. 12808. Applicability of administrative res judicata; related notice requirements.
Sec. 12809. Telephone access to the Social Security Administration.
Sec. 12810. Vocational rehabilitation demonstration projects.
Sec. 12811. Exemption of certain aliens, receiving amnesty under the Immigration and Nationality Act, from prosecution for misreporting of earnings or misuse of social security account numbers of social security cards.
Sec. 12812. Reduction of amount of wages needed to earn a year of coverage applicable in determining special minimum primary insurance amount.
Sec. 12813. Elimination of eligibility for retroactive benefits for certain individuals eligible for reduced benefits.
Sec. 12814. Charging of earnings of corporate directors.
Sec. 12815. Collection of employee social security and railroad retirement taxes on taxable group-term life insurance provided to retirees.
Sec. 12816. Consolidation of old methods of computing primary insurance amounts.
Sec. 12817. Suspension of dependent's benefits when the worker is in an extended period of eligibility.
Sec. 12818. Tier 1 railroad retirement tax rates explicitly determined by reference to social security taxes.
Sec. 12819. Transfer to railroad retirement account.
Sec. 12820. Miscellaneous technical corrections.

SUBTITLE J—MISCELLANEOUS AND TECHNICAL AMENDMENTS RELATING TO THE MEDICARE PROGRAM

PART 1—NO COST PROVISIONS

Sec. 12901. Patient self-determination.
Sec. 12902. Miscellaneous and technical provisions relating to part A.
Sec. 12903. Miscellaneous and technical provisions relating to part B.
Sec. 12904. Provisions relating to health maintenance organizations.
Sec. 12905. Standards for medicare supplemental insurance.

At the end of title XII, add the following:

Subtitle H—Human Resource Amendments

SEC. 12701. SHORT TITLE; AMENDMENT OF SOCIAL SECURITY ACT.

(a) SHORT TITLE.—This subtitle may be cited as the "Human Resource Amendments of 1990".

(b) AMENDMENT OF SOCIAL SECURITY ACT.—Except as otherwise expressly provided, wherever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

PART 1—CHILD SUPPORT ENFORCEMENT

SEC. 12711. EXTENSION OF IRS INTERCEPT FOR NON-AFDC FAMILIES.

(a) AUTHORITY OF STATES TO REQUEST WITHHOLDING OF FEDERAL TAX REFUNDS FROM PERSONS OWING PAST DUE CHILD SUPPORT.—Section 464(a)(2)(B) (42 U.S.C. 664(a)(2)(B)) is amended by striking "January 1, 1991" and inserting "January 10, 1996".

(b) WITHHOLDING OF FEDERAL TAX REFUNDS AND COLLECTION OF PAST DUE CHILD SUPPORT ON BEHALF OF DISABLED CHILD OF ANY AGE, AND OF SPOUSAL SUPPORT INCLUDED IN ANY CHILD SUPPORT ORDER.—Section 464(c) (42 U.S.C. 664(c)) is amended—

(1) in paragraph (2), by striking "minor child." and inserting "qualified child (or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent).";" and

(2) by adding at the end the following:

"(3) For purposes of paragraph (2), the term 'qualified child' means a child—

"(A) who is a minor; or

"(B)(i) who, while a minor, was determined to be disabled under title II or XVI; and

"(ii) for whom an order of support is in force.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on January 1, 1991.

SEC. 12712. EXTENSION OF COMMISSION ON INTERSTATE CHILD SUPPORT.

(a) REAUTHORIZATION.—Section 126 of the Family Support Act of 1988 (42 U.S.C. 666 note) is amended—

(1) in subsection (d)—

(A) in paragraph (1), by striking "1990" and inserting "1991"; and

(B) in paragraph (2), by striking "1991" and inserting "1992";

(2) in subsection (e), by adding at the end the following:

"(5)(A) Individuals may be appointed to serve the Commission without regard to the provisions of title 5 that govern appointments in the competitive service, without regard to the competitive service, and without regard to the classification system in chapter 53 of title 5, United States Code. The chairman of the Commission may fix the compensation of the Executive Director at a rate that shall not exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

"(B) The Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(C) On the request of the chairman, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section without regard to section 3341 of title 5, United States Code."; and

(3) in subsection (f)(1), by striking "1991" and inserting "1992".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

PART 2—UNEMPLOYMENT COMPENSATION

SEC. 12721. AMOUNTS TRANSFERRED TO STATE UNEMPLOYMENT COMPENSATION PROGRAM ACCOUNTS.

(a) ALLOCATION OF AMOUNTS.—Paragraph (2) of section 903(a) (42 U.S.C. 1103(a)(2)) is amended to read as follows:

"(2) Each State's share of the funds to be transferred under this subsection as of any October 1—

"(A) shall be determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury before such date, and

"(B) shall bear the same ratio to the total amount to be so transferred as—

"(i) the amount of wages subject to tax under section 3301 of the Internal Revenue Code of 1986 during the preceding calendar year which are determined by the Secretary of Labor to be attributable to the State, bears to

"(ii) the total amount of wages subject to such tax during such year."

(b) USE OF TRANSFERRED AMOUNTS.—Paragraph (2) of section 903(c) (42 U.S.C. 1103(c)(2)) is amended—

(1) by striking "and" at the end of subparagraph (C), and

(2) by striking so much of such paragraph as follows subparagraph (C) and inserting the following:

"(D)(i) the appropriation law limits the total amount which may be obligated under such appropriation at any time to an amount which does not exceed, at any such time, the amount by which—

"(I) the aggregate of the amounts transferred to the account of such State pursuant to subsections (a) and (b), exceeds

"(II) the aggregate of the amounts used by the State pursuant to this subsection and charged against the amounts transferred to the account of such State, and

"(ii) for purposes of clause (i), amounts used by a State for administration shall be chargeable against transferred amounts at the exact time the obligation is entered into, and

"(E) the use of the money is accounted for in accordance with standards established by the Secretary of Labor."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 12722. PROHIBITION AGAINST COLLATERAL ESTOPPEL.

(a) IN GENERAL.—Section 3304(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following new paragraph:

"(18) no finding of fact or law, judgment, conclusion, or final order made with respect to a claim for unemployment compensation benefits pursuant to the State's unemployment compensation law may be conclusive or binding or used as evidence in any separate or subsequent action or proceeding in another forum, except proceedings under the State's unemployment compensation law, regardless of whether the prior action was between the same or related parties or involved the same facts."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on October 1, 1991.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and October 1, 1991, such amendments shall take effect 30 calendar days after the first day on which such legislature is in session on or after October 1, 1991.

PART 3—SUPPLEMENTAL SECURITY INCOME

SEC. 12731. EXCLUSION FROM INCOME AND RESOURCES OF VICTIMS' COMPENSATION PAYMENTS.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; and"; and

(3) by adding at the end the following:

"(17) any amount received from a fund established by a State to aid victims of crime.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9)(A) any amount received from a fund established by a State to aid victims of crime, to the extent that the recipient demonstrates that such amount was paid as compensation for expenses incurred or losses suffered as a result of a crime; and

"(B) any amount received from a fund described in subparagraph (A) that is not excluded by reason of subparagraph (A) and is

unexpended, for the 9-month period beginning after the month in which received.".

(c) VICTIMS COMPENSATION AWARD NOT REQUIRED TO BE ACCEPTED AS CONDITION OF RECEIVING BENEFITS.—Section 1631(a) (42 U.S.C. 1383(a)) is amended by adding at the end the following:

"(9) Benefits under this title shall not be denied to any individual solely by reason of the refusal of the individual to accept an amount offered as compensation for a crime of which the individual was a victim.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect for months beginning 6 or more months after the date of the enactment of this Act.

SEC. 12732. ATTAINMENT OF AGE 65 NOT TO SERVE AS BASIS FOR TERMINATION OF ELIGIBILITY UNDER SECTION 1619(b).

(a) IN GENERAL.—Section 1619(b) (42 U.S.C. 1392h(b)) is amended by striking "under age 65".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits payable for months beginning 6 or more months after the date of the enactment of this Act.

SEC. 12733. EXCLUSION FROM INCOME OF IMPAIRMENT-RELATED WORK EXPENSES.

(a) IN GENERAL.—Section 1612(b)(4)(B)(ii) (42 U.S.C. 1382a(b)(4)(B)(ii)) is amended by striking "(for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits payable for calendar months beginning after the date of the enactment of this Act.

SEC. 12734. TREATMENT OF ROYALTIES AND HONORARIA AS EARNED INCOME.

(a) IN GENERAL.—Section 1612(a) (42 U.S.C. 1382a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (C); and

(B) by adding at the end the following:

"(E) any royalty earned from self-employment in a trade or business, or by an individual in connection with any publication of the work of the individual, and that portion of any honorarium which is received for services rendered; and"; and

(2) in paragraph (2)(F), by inserting "not described in paragraph (1)(E)" before the period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for calendar months beginning 17 or more months after the date of the enactment of this Act.

SEC. 12735. CERTAIN STATE RELOCATION ASSISTANCE EXCLUDED FROM SSI INCOME AND RESOURCES.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)), as amended by section 12731(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting a semicolon; and

(3) by inserting after paragraph (17) the following:

"(18) relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)), as amended by section 12731(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(3) by inserting after paragraph (8) the following:

"(9) relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months beginning 6 or more calendar months after the date of the enactment of this Act.

SEC. 12736. EVALUATION OF CHILD'S DISABILITY BY PEDIATRICIAN OR OTHER QUALIFIED SPECIALIST.

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

"(H) In making any determination under this title with respect to the disability of a child who has not attained the age of 18 years, the Secretary shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of the child (as determined by the Secretary) evaluates the child.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made 6 or more months after the date of the enactment of this Act.

SEC. 12737. REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES FURNISHED DURING CERTAIN MONTHS OF NONPAYMENT OF SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) IN GENERAL.—Section 1615 (42 U.S.C. 1382d) is amended by adding at the end the following:

"(e) The Secretary may reimburse the State agency described in subsection (d) for the costs described therein incurred in the provision of rehabilitation services—

"(1) for any month for which an individual received—

"(A) benefits under section 1611;

"(B) assistance pursuant to section 1619(b); or

"(C) a federally administered State supplementary payment under section 1616; and

"(2) for any month before the 13th consecutive month for which an individual, for a reason other than cessation of disability or blindness, was ineligible for—

"(A) benefits under section 1611;

"(B) federally administered State supplementary payments under any agreement entered into under section 1616(a);

"(C) benefits under section 1619; and

"(D) federally administered State supplementary payments under any agreement entered into under section 212(b) of Public Law 93-66.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to claims for reimbursement pending on or after such date.

PART 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 12741. OPTIONAL MONTHLY REPORTING AND RETROSPECTIVE BUDGETING.

(a) OPTIONAL MONTHLY REPORTING.—Section 402(a)(14) (42 U.S.C. 602(a)(14)) is amended—

(1) by striking "with respect to" and all that follows through "(A) provide" and insert "provide, at the option of the State and with respect to such category or categories as the State may select and identify in its State plan (A)";

(2) by striking "(with the prior approval of the Secretary in recent work history and earned income cases)"; and

(3) by striking "upon a determination" and all that follows through "paragraph".

(b) OPTIONAL RETROSPECTIVE BUDGETING.—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended by striking all that precedes subparagraph (A) and inserting the following:

"(13) at the option of the State, but only with respect to any one or more categories of families required to report monthly to the State agency pursuant to paragraph (14), provide that—".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to reports pertaining to, or aid payable for, months beginning in or after October 1990.

SEC. 12742. CHILDREN RECEIVING FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS NOT TREATED AS MEMBER OF FAMILY UNIT FOR PURPOSES OF DETERMINING ELIGIBILITY FOR, OR AMOUNT OF, AFDC BENEFIT.

(a) IN GENERAL.—Part A of title IV (42 U.S.C. 601 et seq.) is amended by inserting after section 408 the following:

"SEC. 409. EXCLUSION FROM AFDC UNIT OF CHILD FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE.

"Notwithstanding any other provision of this title, a child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a member of a family for purposes of determining the amount of benefits of the family under this part, and the income and resources of such child shall be excluded from the income and resources of a family under this part unless, in the case of a child with respect to whom adoption assistance payments are so made, such exclusion would reduce the benefits of the family under this part.".

(b) CONFORMING REPEAL.—Section 478 (42 U.S.C. 678) is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the repeal made by subsection (b) shall take effect on the first day of the 7th calendar month beginning after the date of the enactment of this Act.

SEC. 12743. ELIMINATION OF TERM "LEGAL GUARDIAN".

(a) IN GENERAL.—Section 402(a)(39) (42 U.S.C. 602(a)(39)) is amended—

(1) by striking "or legal guardian"; and

(2) by striking "or legal guardians".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12744. REPORTING OF CHILD ABUSE AND NEGLECT.

(a) CONCERNING AFDC APPLICANTS AND RECIPIENTS.—

(1) IN GENERAL.—Section 402(a)(16) (42 U.S.C. 602(a)(16)) is amended to read as follows:

"(16) provide that the State agency will—

"(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under this part by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;".

(2) CONFORMING AMENDMENTS.—Section 402(a)(9) (42 U.S.C. 602(a)(9)) is amended—

(A) in subparagraph (C), by striking "and"; and

(B) by inserting ", and (E) reporting and providing information pursuant to paragraph (16) to appropriate authorities with respect to known or suspected child abuse or neglect" before the 1st semicolon.

(b) CONCERNING RECIPIENTS OF FOSTER CARE OR ADOPTION ASSISTANCE.—

(1) IN GENERAL.—Section 471(a)(9) (42 U.S.C. 671(a)(9)) is amended to read as follows:

"(9) provides that the State agency will—

"(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B or this part by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;".

(2) CONFORMING AMENDMENTS.—Section 402(a)(8) (42 U.S.C. 602(a)(8)) is amended—

(A) in subparagraph (C), by striking "and"; and

(B) by inserting ", and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect" before the 1st semicolon.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 12745. DISCLOSURE OF INFORMATION ABOUT AFDC APPLICANTS AND RECIPIENTS AUTHORIZED FOR PURPOSES DIRECTLY CONNECTED TO STATE FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 402(a)(9)(A) (42 U.S.C. 602(a)(9)(A)) is amended by striking "or D" and inserting ", D, or E".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12746. REPATRIATION.

(a) IN GENERAL.—Section 1113 (42 U.S.C. 1313) is amended—

(1) in subsection (d), by striking "on or after October 1, 1989" and inserting "after September 30, 1991"; and

(2) by adding at the end the following:

"(e)(1) The Secretary may accept on behalf of the United States gifts, in cash or in kind, for use in carrying out the program established under this section. Gifts in the form of cash shall be credited to the appropriation account from which this program is funded and shall remain available until expended.

"(2) Gifts accepted under paragraph (1) shall be available for obligation or other use by the United States only to the extent and in the amounts provided in appropriation Acts.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12747. TECHNICAL AMENDMENTS TO NATIONAL COMMISSION ON CHILDREN.

Section 1139 (42 U.S.C. 1320b-9) is amended—

(1) in subsection (d)—

(A) by striking "March 31, 1991" and inserting "September 1, 1990"; and

(B) by striking "September 30, 1990" and inserting "March 31, 1991"; and

(2) in subsection (e)(4)(B), by striking "September 30, 1990" and inserting "March 31, 1991".

PART 5—CHILD WELFARE AND FOSTER CARE

SEC. 12751. ACCOUNTING FOR ADMINISTRATIVE COSTS.

(a) RECLASSIFICATION.—Section 474(a)(3) (42 U.S.C. 674) is amended by inserting "provision of child placement services and" after "proper and efficient".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12752. SECTION 427 TRIENNIAL REVIEWS.

(a) AMENDMENTS TO SECTION 10406 OF OBRA 1989.—Section 10406 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 627 note) is amended—

(1) by striking "1991" and inserting "1992";

(2) by striking "1990" and inserting "1991"; and

(3) in the section heading, by striking "1990" and inserting "1991".

(b) CONFORMING AMENDMENT.—The item relating to section 10406 in the table of contents appearing immediately after section 10000 of such Act is amended by striking "1990" and inserting "1991".

SEC. 12753. EXTENSION OF SERVICES UNDER THE INDEPENDENT LIVING PROGRAM.

(a) AUTHORITY OF STATES TO INCREASE MAXIMUM AGE OF PARTICIPANTS IN INDEPENDENT LIVING INITIATIVES PROGRAMS TO NOT MORE THAN 21.—Section 477(a)(2)(C) (42 U.S.C. 677(a)(2)(C)) is amended by striking "end of the 6-month period beginning on the date of the discontinuance of such payments or care" and inserting "child has attained the age of 21 years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments made under part E of title IV of the Social Security Act for fiscal years beginning with or after fiscal year 1991.

Subtitle I—Old-Age, Survivors, and Disability Insurance

SEC. 12801. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(i), by inserting "or" after "hearing,", and by striking "pending, or (iii) June 1991." and inserting "pending."; and

(2) by striking paragraph (3).

SEC. 12802. REPEAL OF SPECIAL DISABILITY STANDARD FOR WIDOWS AND WIDOWERS.

(a) IN GENERAL.—Section 223(d)(2) of the Social Security Act (42 U.S.C. 423(d)(2)) is amended—

(1) in subparagraph (A), by striking "(except a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202(e) or (f))";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 216(i)(1) of such Act (42 U.S.C. 416(i)(1)) is amended by striking "(2)(C)" and inserting "(2)(B)".

(2) Section 223(f)(1)(B) of such Act (42 U.S.C. 423(f)(1)(B)) is amended to read as follows:

"(B) the individual is now able to engage in substantial gainful activity; or".

(3) Section 223(f)(2)(A)(ii) of such Act (42 U.S.C. 423(f)(2)(A)(ii)) is amended to read as follows:

"(ii) the individual is now able to engage in substantial gainful activity, or".

(4) Section 223(f)(3) of such Act (42 U.S.C. 423(f)(3)) is amended by striking "therefore—" and all that follows and inserting "therefore the individual is able to engage in substantial gainful activity; or".

(5) Section 223(f) of such Act is further amended, in the matter following paragraph (4), by striking "(or gainful activity in the case of a widow, surviving divorced wife, widower, or surviving divorced husband)" each place it appears.

(c) TRANSITIONAL RULES RELATING TO MEDICAID AND MEDICARE ELIGIBILITY.—

(1) DETERMINATION OF MEDICAID ELIGIBILITY.—Section 1634(d) of such Act (42 U.S.C. 1383c(d)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking "(d) If any person—" and inserting "(d)(1) This subsection applies with respect to any person who—";

(C) in subparagraph (A) (as redesignated), by striking "as required" and all that follows through "but not entitled" and inserting "being then not entitled";

(D) in subparagraph (B) (as redesignated), by striking the comma at the end and inserting a period; and

(E) by striking "such person shall" and all that follows and inserting the following new paragraph:

"(2) For purposes of title XIX, each person with respect to whom this subsection applies—

"(A) shall be deemed to be a recipient of supplemental security income benefits under this title if such person received such a benefit for the month before the month in which such person began to receive a benefit described in paragraph (1)(A), and

"(B) shall be deemed to be a recipient of State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66) if such person received such a payment for the month before the month in which such person began to receive a benefit described in paragraph (1)(A),

for so long as such person (i) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of benefits described in paragraph (1)(A), and (ii) is not entitled to hospital insurance benefits under part A of title XVIII.".

(2) INCLUSION OF MONTHS OF SSI ELIGIBILITY WITHIN 5-MONTH DISABILITY WAITING PERIOD AND 24-MONTH MEDICARE WAITING PERIOD.—

(A) WIDOW'S BENEFITS BASED ON DISABILITY.—Section 202(e)(5) of the Social Security Act (42 U.S.C. 402(e)(5)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(5)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widow or surviving divorced wife is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such wait-

ing period for which the requirements of subparagraph (A) have been met.".

(B) WIDOWER'S BENEFITS BASED ON DISABILITY.—Section 202(f)(6) of such Act (42 U.S.C. 402(f)(6)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(6)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widower or surviving divorced husband is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(C) MEDICARE BENEFITS.—Section 226(e)(1) of such Act (42 U.S.C. 426(e)(1)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting "(A)" after "(e)(1)"; and

(iii) by adding at the end the following new subparagraph:

"(B) For purposes of subsection (b)(2)(A)(iii), each month in the period commencing with the first month for which an individual is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the 24 months for which such individual must have been entitled to widow's or widower's insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.".

(d) DEEMED DISABILITY FOR PURPOSES OF ENTITLEMENT TO WIDOW'S AND WIDOWER'S INSURANCE BENEFITS FOR WIDOWS AND WIDOWERS ON SSI ROLLS.—

(1) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of such Act (42 U.S.C. 402(e)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(2) WIDOWER'S INSURANCE BENEFITS.—Section 202(f) of such Act (42 U.S.C. 402(f)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section (other than paragraphs (1) and (2)(C) of subsection (c)) shall apply with respect to monthly insurance benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The amendments made by subsection (c)(1) shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(2)(C) shall apply with respect to items and services furnished after December 1990.

(2) APPLICATION REQUIREMENTS FOR CERTAIN INDIVIDUALS ON BENEFIT ROLLS.—In the case of any individual who—

(A) is entitled to disability insurance benefits under section 223 of the Social Security Act for December 1990 or is eligible for supplemental security income benefits under title XVI of such Act, or State supplementary payments of the type referred to in section 1616(a) of such Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for January 1991,

(B) applied for widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act during 1990, and

(C) is not entitled to such benefits under such subsection (e) or (f) for any month on the basis of such application by reason of the definition of disability under section 223(d)(2)(B) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), and would have been so entitled for such month on the basis of such application if the amendments made by this section had been applied with respect to such application,

for purposes of determining such individual's entitlement to such benefits under subsection (e) or (f) of section 202 of the Social Security Act for months after December 1990, the requirement of paragraph (1)(C)(i) of such subsection shall be deemed to have been met.

Sec. 12803. DEPENDENCY REQUIREMENTS APPLICABLE TO A CHILD ADOPTED BY A SURVIVING SPOUSE.

(a) IN GENERAL.—Section 216(e) of the Social Security Act (42 U.S.C. 416(e)) is amended in the second sentence—

(1) by striking "at the time of such individual's death living in such individual's household" and inserting "either living with or receiving at least one-half of his support from such individual at the time of such individual's death"; and

(2) by striking "; except" and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits payable for months after December 1990, but only on the basis of applications filed after December 31, 1990.

Sec. 12804. ENTITLEMENT TO BENEFITS OF DEEMED SPOUSE AND LEGAL SPOUSE.

(a) CONTINUED ENTITLEMENT OF DEEMED SPOUSE DESPITE ENTITLEMENT OF LEGAL SPOUSE.—Section 216(h)(1) of the Social Security Act (42 U.S.C. 416(h)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(h)(1)(A)"; and

(B) by striking "If such courts" in the second sentence and inserting the following:

"(ii) If such courts"; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)";

(B) by striking "The provisions of the preceding sentence" in the second sentence and inserting the following:

"(ii) The provisions of clause (i)";

(C) by striking "(i) if another" in the second sentence and all that follows through "or (ii)";

(D) by striking "The entitlement" in the third sentence and inserting the following:

"(iii) The entitlement";

(E) by striking "subsection (b), (c), (e), (f), or (g)" in the third sentence and inserting "subsection (b) or (c)",

(F) by striking "wife, widow, husband, or widower" the first place it appears in the third sentence and inserting "wife or husband";

(G) by striking "(i) in which" in the third sentence and all that follows through "in which such applicant entered" and inserting "in which such person enters";

(H) by striking "For purposes" in the fourth sentence and inserting the following:

"(iv) For purposes";

and

(I) by striking "(i)" and "(ii)" in the fourth sentence and inserting "(I)" and "(II)", respectively.

(b) TREATMENT OF DIVORCE IN THE CONTEXT OF INVALID MARRIAGE.—Section 216(h)(1)(B)(i) of such Act (as amended by subsection (a)) is further amended—

(1) by striking "where under subsection (b), (c), (f), or (g) such applicant is not the wife, widow, husband, or widower of such individual" and inserting "where under subsection (b), (c), (d), (f), or (g) such applicant is not the wife, divorced wife, widow, surviving divorced wife, husband, divorced husband, widower, or surviving divorced husband of such individual";

(2) by striking "and such applicant" and all that follows through "files the application,";

(3) by striking "subsections (b), (c), (f), and (g)" and inserting "subsections (b), (c), (d), (f), and (g)"; and

(4) by adding at the end the following new sentences: "Notwithstanding the preceding sentence, in the case of any person who would be deemed under the preceding sentence a wife, widow, husband, or widower of the insured individual, such marriage shall not be deemed to be a valid marriage unless the applicant and the insured individual were living in the same household at the time of the death of the insured individual or (if the insured individual is living) at the time the applicant files the application. A marriage that is deemed to be a valid marriage by reason of the preceding sentence shall continue to be deemed a valid marriage if the insured individual and the person entitled to benefits as the wife or husband of the insured individual are no longer living in the same household at the time of the death of such insured individual.".

(c) TREATMENT OF MULTIPLE ENTITLEMENTS UNDER THE FAMILY MAXIMUM.—Section 203(a)(3) of such Act (42 U.S.C. 403(a)(3)) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) In any case in which—

"(i) two or more individuals are entitled to monthly benefits for the same month as a spouse under subsection (b) or (c) of section 202, or as a surviving spouse under subsection (e), (f), or (g) of section 202,

"(ii) at least one of such individuals is entitled by reason of subparagraph (A)(ii) or (B) of section 216(h)(1), and

"(iii) such entitlements are based on the wages and self-employment income of the same insured individual,

the benefit of the entitled individual whose entitlement is based on a valid marriage (as determined without regard to subparagraphs (A)(ii) and (B) of section 216(h)(1)) to such insured individual shall, for such month and all months thereafter, be determined without regard to this subsection, and the benefits of all other individuals who are entitled, for such month or any month thereafter, to monthly benefits under section 202 based on the wages and self-employment income of such insured individual shall be determined as if such entitled individual were not entitled to benefits for such month.".

(d) CONFORMING AMENDMENT.—Section 203(a)(6) of such Act (42 U.S.C. 403(a)(6)) is amended by inserting "(3)(D)," after "(3)(C),".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

(2) TERMINATED BENEFICIARIES AND DIVORCED DEEMED SPOUSES.—In the case of individuals whose benefits under title II of the Social Security Act have been terminated under section 216(h)(1)(B) of such Act before January 1, 1991, or who would be entitled to benefits under such title for any month after December 1990 as a divorced spouse or surviving divorced spouse solely by reason of the amendments made by this section, the amendments made by this section shall apply only with respect to benefits for which application is filed with the Secretary of Health and Human Services after December 31, 1990.

SEC. 12806. REPRESENTATIVE PAYEE REFORMS.

(a) IMPROVEMENTS IN THE REPRESENTATIVE PAYEE SELECTION AND RECRUITMENT PROCESS.—

(1) AUTHORITY FOR CERTIFICATION OF PAYMENTS TO REPRESENTATIVE PAYEES.—

(A) TITLE II.—Section 205(j)(1) of the Social Security Act (42 U.S.C. 405(j)) is amended to read as follows:

"REPRESENTATIVE PAYEES

"(j)(1) If the Secretary determines that the interest of any individual under this title would be served thereby, certification of payment of such individual's benefit under this title may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to another individual or organization with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual's 'representative payee'). If the Secretary or a court of competent jurisdiction determines that a representative payee has misused any individual's benefit paid to such representative payee pursuant to this subsection or section 1631(a)(2), the Secretary shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternate representative payee or to the individual.".

(B) TITLE XVI.—

(i) IN GENERAL.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended to read as follows:

"(2) PERSONS TO WHOM PAYMENTS MAY BE MADE.—

"(A) AUTHORITY TO MAKE PAYMENTS.—

"(i) PAYMENTS TO ELIGIBLE INDIVIDUALS.—Payments of the benefit of any individual may be made to any such individual or to the eligible spouse (if any) of such individual or partly to each.

"(ii) PAYMENTS TO REPRESENTATIVE PAYEES.—

"(I) IN GENERAL.—Upon a determination by the Secretary that the interest of such individual would be served thereby, or in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A), such payments shall be made, regardless of the legal competency or incompetency of the individual or eligible spouse, to another individual who, or to a qualified organization (as defined in subparagraph (D)(ii)) which, is interested in or concerned with the welfare of such individual and with respect to whom the requirements of subparagraph (B) have been met (in this paragraph referred to as such individual's 'representative payee') for the use and benefit of the individual or eligible spouse.

"(II) MISUSE OF PAYMENTS.—If the Secretary or a court of competent jurisdiction determines that the representative payee of an individual or eligible spouse has misused any benefits which have been paid to the representative payee pursuant to subclause (I) or section 205(j)(1), the Secretary shall promptly terminate payment of benefits to the representative payee pursuant to this subparagraph, and provide for payment of benefits to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse.".

(ii) CONFORMING AMENDMENTS.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(I) in clause (i), by striking "a person other than the individual or spouse entitled to such payment" and inserting "representative payee of an individual or spouse";

(II) in clauses (ii), (iii), and (iv), by striking "other person to whom such payment is made" each place it appears and inserting "representative payee"; and

(III) in clause (v)—

(aa) by striking "person receiving payments on behalf of another" and inserting "representative payee"; and

(bb) by striking "person receiving such payments" and inserting "representative payee".

(2) PROCEDURE FOR SELECTING REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j)(2) of such Act (42 U.S.C. 405(j)(2)) is amended to read as follows:

"(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual's representative payee shall be made on the basis of—

"(i) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted in advance of such certification and shall, to the extent practicable, include a face-to-face interview with the person to serve as representative payee, and

"(ii) adequate evidence that such certification is in the interest of such individual (as determined by the Secretary in regulations).

"(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity has been submitted with an application for benefits under this title or title XVI,

"(II) verify such person's social security account number (or employer identification number),

"(III) determine whether such person has been convicted of a violation of section 208 or 1632, and

"(IV) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection or payment of benefits to such person has been terminated pursuant to section 1631(a)(2)(A)(ii)(II) by reason of misuse of funds paid as benefits under this title or title XVI.

"(ii) The Secretary shall establish and maintain 2 centralized files, which shall be updated periodically and which shall be in a form which renders them readily retrievable by each servicing office of the Social Security Administration. Such files shall consist of—

"(I) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked on or after January 1, 1991, pursuant to this subsection, or with respect to whom payment of benefits has been terminated on or after such date pursuant to section 1631(a)(2), by reason of misuse of funds paid as benefits under this title or title XVI, and

"(II) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208, 1107(a), 1128B, or 1632.

"(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

"(I) such person has previously been convicted as described in subparagraph (B)(i)(III),

"(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in subparagraph (B)(i)(IV), or payment of benefits to such person pursuant to section 1631(a)(2)(A)(ii) has previously been terminated as described in section 1631(a)(2)(B)(ii)(I)(dd), or

"(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration.

"(ii) The Secretary shall prescribe regulations under which the Secretary may grant exemptions to any person from the provisions of clause (i)(II) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

"(iii) Clause (i)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

"(I) a relative of such individual if such relative resides in the household of such individual,

"(II) a legal guardian or legal representative of such individual,

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State,

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the certification of payment to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom such certification of payment would serve the best interests of such individual, or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(iv) The procedures referred to in clause (iii)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(I) such individual poses no risk to the beneficiary,

"(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest, and

"(III) no other more suitable representative payee can be found.

"(D)(i) Subject to clause (ii), if the Secretary makes a determination described in the first sentence of paragraph (1) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

"(ii)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (i) shall be for a period of not more than 1 month.

"(II) Subclause (I) shall not apply in any case in which the individual is, as of the date of the Secretary's determination, legally incompetent or under the age of 15.

"(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the Secretary determines is in the best interest of the individual entitled to such benefits.

"(E)(i) Any individual who is dissatisfied with a determination by the Secretary to certify payment of such individual's benefit to a representative payee under paragraph (1) or with the designation of a particular person to serve as representative payee shall be entitled to a hearing by the Secretary to the same extent as is provided in subsection (b), and to judicial review of the Secretary's final decision as is provided in subsection (g).

"(ii) In advance of the certification of payment of an individual's benefit to a representative payee under paragraph (1), the Secretary shall provide written notice of the Secretary's initial determination to certify such payment. Such notice shall be provided to such individual, except that, if such individual—

"(I) is under the age of 15,

"(II) is an unemancipated minor under the age of 18, or

"(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

"(iii) Any such notice shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (i) of such individual or such individual's legal guardian or legal representative—

"(I) to appeal a determination that a representative payee is necessary for such individual,

"(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

"(III) to review the evidence upon which such designation is based and submit additional evidence.".

(ii) TITLE XVI.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended to read as follows:

"(B) SELECTION OF REPRESENTATIVE PAYEES.—

"(i) BASIS FOR SELECTION.—Any provision made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of—

"(I) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted before such payment, and shall, to the extent practicable, include a face-to-face interview with the person; and

"(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Secretary in regulations).

"(ii) ELEMENTS OF THE INVESTIGATION.—

"(I) IN GENERAL.—As part of the investigation referred to in clause (i)(I), the Secretary shall—

"(aa) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under title II or this title;

"(bb) verify the social security account number (or employer identification number) of such person;

"(cc) determine whether such person has been convicted of a violation of section 208 or 1632; and

"(dd) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(ii)(II), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title.

"(II) MAINTENANCE OF RECORDS.—The Secretary shall establish and maintain 2 centralized files, each of which shall be updated periodically and which shall be in a form which makes such files readily retrievable by each servicing office of the Social Security Administration, containing—

"(aa) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom payment of benefits has been terminated on or after January 1, 1991, pursuant to subparagraph (A)(ii)(II), or with respect to whom certification of payment of benefits has been revoked on or after such date pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title; and

"(bb) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208, 1107(a), 1128B, or 1632.

"(iii) DISQUALIFICATIONS.—Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

"(I) such person has previously been convicted as described in clause (ii)(I)(cc);

"(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in clause (ii)(I)(dd), or certification of payment of benefits to such person under section 215(j) has previously been revoked as described in section 215(j)(2)(B)(i)(IV); or

"(III) except as provided in clause (v), such person is a creditor of the individual who provides the individual with goods or services for consideration.

"(iv) REGULATORY EXEMPTIONS.—The Secretary shall prescribe regulations under which the Secretary may grant an exemption from clause (iii)(II) to any person on a case-by-case basis if such exemption would be in the best interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to subparagraph (A)(ii).

"(v) EXEMPTIONS FOR CERTAIN CREDITORS.—

"(I) IN GENERAL.—Clause (iii)(III) shall not apply to any person who is a creditor of the individual if the creditor is—

"(aa) a relative of the individual if such relative resides in the household of such individual;

"(bb) a legal guardian or legal representative of the individual;

"(cc) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State;

"(dd) a person who is an administrator, owner, or employee of a facility referred to in clause (cc) if the individual resides in the facility, and the payment of benefits under this title to the facility or the person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom the payment of such benefits would serve the best interests of the individual; or

"(ee) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(II) PROCEDURES APPLICABLE TO EXEMPTION OF CERTAIN CREDITORS BY SECRETARY OF HHS.—The procedures referred to in subclause (I)(ee) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(aa) such individual poses no risk to the beneficiary;

"(bb) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest; and

"(cc) no other more suitable representative payee can be found.

"(vi) DEFERRAL OF PAYMENTS IN CERTAIN CASES.—

"(I) IN GENERAL.—Subject to subclause (II), if the Secretary makes a determination described in subparagraph (A)(ii)(I) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subparagraph.

"(II) MAXIMUM DEFERRAL PERIOD.—

"(aa) IN GENERAL.—Except as provided in subdivision (bb), any deferral or suspension of direct payment of a benefit pursuant to subclause (I) shall be for a period of not more than 1 month.

"(bb) EXCEPTIONS.—Subdivision (aa) shall not apply in any case in which the individual or eligible spouse is, as of the date of the Secretary's determination, legally incompetent or under the age 15 years.

"(vii) RESUMPTION OF PAYMENTS.—Payment pursuant to this subparagraph of any benefits which are deferred or suspended pending the selection of a representative payee shall be made—

"(I) to the representative payee upon such selection; and

"(II) as a single payment, or over such period as the Secretary determines is in the best interests of the individual entitled to such benefits.

"(viii) ADMINISTRATIVE AND JUDICIAL REVIEW.—

"(I) IN GENERAL.—Any individual who is dissatisfied with a determination by the Secretary under subparagraph (A)(ii) to pay such individual's benefits under this title to a representative payee, or with the selection of a particular person to be the representative payee of the individual, shall be entitled to a hearing by the Secretary, and to

judicial review of the Secretary's final decision, to the same extent as is provided in subsection (c).

"(II) NOTICE TO PRECEDE FIRST PAYMENT TO REPRESENTATIVE PAYEE.—Before the first payment of an individual's benefit to a representative payee under subparagraph (A)(ii), the Secretary shall provide written notice of the Secretary's initial determination to so make the payment. Such notice shall be provided to—

"(aa) the legal guardian or legal representative of the individual, if the individual has not attained the age of 15 years, is an unemancipated minor who has not attained the age of 18 years, or is legally incompetent; or

"(bb) the individual, in any other case.

"(III) CONTENTS OF NOTICE.—Any notice referred to in subclause (II) shall be clearly written in language that is easily understandable to the reader, identify the person selected to be the representative payee of the individual, and explain to the reader the right under subclause (I) of the individual or the legal guardian or legal representative of the individual—

"(aa) to appeal a determination that a representative payee is necessary for the individual;

"(bb) to appeal the selection of a particular person to be the representative payee of the individual; and

"(cc) to review the evidence upon which the selection is based and submit additional evidence.",

(B) REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, shall study the feasibility of establishing and maintaining a current list, which would be readily available to local offices of the Social Security Administration for use in investigations undertaken pursuant to section 205(j)(2) or 1631(a)(2)(B) of the Social Security Act, of the names and social security account numbers of individuals who have been convicted of a violation of section 495 of title 18, United States Code. The Secretary of Health and Human Services shall, not later than July 1, 1991, submit the results of such study, together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) PROVISION FOR COMPENSATION OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4)(A) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—

"(i) 10 percent of the monthly benefit involved, or

"(ii) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this subparagraph shall be void and shall be treated as misuse by such organization of such individual's benefits.

"(B) For purposes of this paragraph, the term 'qualified organization' means any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee and which, in accordance with any applicable regulations of the Secretary—

"(i) regularly provides services as the representative payee, pursuant to this subsection or section 1631(a)(2), concurrently to 5 or more individuals, and

"(ii) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual.

"(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 6 months, or both.

"(D) This paragraph shall cease to be effective on January 1, 1994.".

(ii) TITLE XVI.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(I) by redesignating subparagraph (D) as subparagraph (E);

(II) by moving subparagraph (C) 4 ems to the right; and

(III) by inserting after subparagraph (C) the following:

"(D) LIMITATION ON FEES OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

"(i) MAXIMUM FEES.—A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of—

"(I) 10 percent of the monthly benefit involved, or

"(II) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of the individual's benefits under this title.

"(ii) QUALIFIED ORGANIZATION DEFINED.—For purposes of this subparagraph, the term 'qualified organization' means any community-based nonprofit social service agency which—

"(I) is bonded or licensed in each State in which the agency serves as a representative payee; and

"(II) in accordance with any applicable regulations of the Secretary—

"(aa) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 205(j)(4) concurrently to 5 or more individuals; and

"(bb) demonstrates to the satisfaction of the Secretary that such person is not otherwise a creditor of any such individual.

"(iii) PROHIBITION; PENALTY.—Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under clause (i) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 6 months, or both.

"(iv) TERMINATION.—This subparagraph shall cease to be effective on January 1, 1994.".

(B) STUDIES AND REPORTS.—

(i) REPORT BY SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than January 1, 1993, the Secretary of Health and Human Services shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the number and types of qualified organizations which have served as representative payees and have collected fees for such service pursuant to any amendment made by subparagraph (A), and

(ii) REPORT BY COMPTROLLER GENERAL.—Not later than July 1, 1992, the Comptroller General of the United States shall conduct a study of the advantages and disadvantages of allowing qualified organizations serving as representative payees to charge fees pursuant to the amendments made by subparagraph (A) and shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of such study.

(4) STUDY RELATING TO FEASIBILITY OF SCREENING OF INDIVIDUALS WITH CRIMINAL RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payees. The Secretary shall transmit the results of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1992.

(5) EFFECTIVE DATES.—

(A) USE AND SELECTION OF REPRESENTATIVE PAYEES.—The amendments made by paragraphs (1) and (2) shall take effect January 1, 1991, and shall apply only with respect to—

(i) certifications of payment of benefits under title II of the Social Security Act to representative payees made on or after such date; and

(ii) provisions for payment of benefits under title XVI of such Act to representative payees made on or after such date.

(B) COMPENSATION OF REPRESENTATIVE PAYEES.—The amendments made by paragraph (3) shall take effect July 1, 1991, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendments not later than such date.

(b) IMPROVEMENTS IN RECORDKEEPING AND AUDITING REQUIREMENTS.—

(1) IMPROVED ACCESS TO CERTAIN INFORMATION.—

(A) IN GENERAL.—Section 205(j)(3) of the Social Security Act is amended—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(iii) in subparagraph (D) (as so redesignated), by striking "(A), (B), (C), and (D)" and inserting "(A), (B), and (C)"; and

(iv) by adding at the end the following new subparagraphs:

"(E) The Secretary shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of—

"(i) the address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection or section 1631(a)(2), and

"(ii) the address and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee

pursuant to this subsection or section 1631(a)(2).

"(F) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this subsection or section 1631(a)(2) and which are located in the area served by such servicing office.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect October 1, 1992, and the Secretary of Health and Human Services shall take such actions as are necessary to ensure that the requirements of section 205(j)(3)(E) of the Social Security Act (as amended by subparagraph (A) of this paragraph) are satisfied as of such date.

(2) STUDY RELATING TO MORE STRINGENT OVERSIGHT OF HIGH-RISK REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the need for a more stringent accounting system for high-risk representative payees than is otherwise generally provided under section 205(j)(3) or 1631(a)(2)(C) of the Social Security Act, which would include such additional reporting requirements, record maintenance requirements, and other measures as the Secretary considers necessary to determine whether services are being appropriately provided by such payees in accordance with such sections 205(j) and 1631(a)(2).

(B) SPECIAL PROCEDURES.—In such study, the Secretary shall determine the appropriate means of implementing more stringent, statistically valid procedures for—

(i) reviewing reports which would be submitted to the Secretary under any system described in subparagraph (A), and

(ii) periodic, random audits of records which would be kept under such a system,

in order to identify any instances in which high-risk representative payees are misusing payments made pursuant to section 205(j) or 1631(a)(2) of the Social Security Act.

(C) HIGH-RISK REPRESENTATIVE PAYEE.—For purposes of this paragraph, the term "high-risk representative payee" means a representative payee under section 205(j) or 1631(a)(2) of the Social Security Act (other than a Federal or State institution) who—

(i) regularly provides concurrent services as a representative payee under such section 205(j), such section 1631(a)(2), or both such sections, for 5 or more individuals who are unrelated to such representative payee,

(ii) is neither related to an individual on whose behalf the payee is being paid benefits nor living in the same household with such individual,

(iii) is a creditor of such individual, or

(iv) is in such other category of payees as the Secretary may determine appropriate.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, together with any recommendations, not later than July 1, 1991. Such report shall include an evaluation of the feasibility and desirability of legislation implementing stricter accounting and review procedures for high-risk representative payees in all servicing offices of the Social Security Administration (together with proposed legislative language).

(3) DEMONSTRATION PROJECTS RELATING TO PROVISION OF INFORMATION TO LOCAL AGENCIES PROVIDING CHILD AND ADULT PROTECTIVE SERVICES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement a demonstration project under this paragraph in each of not fewer than 2 States. Under each such project, the Secretary shall enter into an agreement with the State in which the project is located to make readily available, for the duration of the project, to the appropriate State agency, a listing of addresses of multiple benefit recipients.

(B) LISTING OF ADDRESSES OF MULTIPLE BENEFIT RECIPIENTS.—The list referred to in subparagraph (A) shall consist of a current list setting forth each address within the State at which benefits under title II, benefits under title XVI, or any combination of such benefits are being received by 5 or more individuals. For purposes of this subparagraph, in the case of benefits under title II, all individuals receiving benefits on the basis of the wages and self-employment income of the same individual shall be counted as 1 individual.

(C) APPROPRIATE STATE AGENCY.—The appropriate State agency referred to in subparagraph (A) is the agency of the State which the Secretary determines is primarily responsible for regulating care facilities operated in such State or providing for child and adult protective services in such State.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing the programs established pursuant to this paragraph on a permanent basis.

(E) STATE.—For purposes of this paragraph, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(c) REPORTS TO THE CONGRESS.—

(1) IN GENERAL.—

(A) TITLE II.—Section 205(j)(5) of the Social Security Act (as so redesignated by subsection (a)(3)(A)(i) of this section) is amended to read as follows:

"(5) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Secretary, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Secretary determines to be appropriate.".

(B) TITLE XVI.—Section 1631(a)(2)(E) of the Social Security Act (42 U.S.C. 1383(a)(2)(E)), as so redesignated by subsection (a)(3)(A)(ii)(I) of this section, is amended to read as follows:

"(E) INFORMATION REQUIRED TO BE INCLUDED IN SECTION 704 REPORT.—The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

"(i) the number of cases in which the representative payee was changed;

"(ii) the number of cases discovered where there has been a misuse of funds;

"(iii) how any such cases were dealt with by the Secretary;

"(iv) the final disposition of such cases (including any criminal penalties imposed); and

"(v) such other information as the Secretary determines to be appropriate.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to annual reports issued for years after 1990.

(3) FEASIBILITY STUDY REGARDING INVOLVEMENT OF DEPARTMENT OF VETERANS AFFAIRS.—As soon as practicable after the date of the enactment of this Act, Secretary of Health and Human Services, in cooperation with the Secretary of Veterans Affairs, shall conduct a study of the feasibility of legislation designating the Department of Veterans Affairs as the lead agency for purposes of selecting, appointing, and monitoring representative payees for those individuals who recieve benefits paid under title II or XVI of the Social Security Act and benefits paid by the Department of Veterans Affairs. Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the results of such study, together with any recommendations.

SEC. 12806. FEES FOR REPRESENTATION OF CLAIMANTS IN ADMINISTRATIVE PROCEEDINGS.

(a) IN GENERAL.—

(1) TITLE II.—Subsection (a) of section 206 of the Social Security Act (42 U.S.C. 406(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) in the fourth sentence, by striking "charged" and inserting "recovered"; and

(C) by striking the fifth sentence and all that follows through "Any person who" in the seventh sentence and inserting the following:

"(2)(A) In the case of a claim of entitlement to past-due benefits under this title, if—

"(i) an agreement between the claimant and another person regarding any fee to be recovered by such person to compensate such person for services with respect to the claim is presented in writing to the Secretary prior to the time of the Secretary's determination regarding the claim,

"(ii) the fee specified in the agreement does not exceed the lesser of—

"(I) 25 percent of the total amount of such past-due benefits (as determined before any applicable reduction under section 1127(a)), or

"(II) $4,000, and

"(iii) the determination is favorable to the claimant,

then the Secretary shall approve that agreement at the time of the favorable determination, and (subject to paragraph (3)) the fee specified in the agreement shall be the maximum fee. The Secretary may from time to time increase the dollar amount under clause (ii)(II) to the extent that the rate of increase in such amount, as determined over the period since January 1, 1991, does not at any time exceed the rate of increase in primary insurance amounts under section 215(i) since such date. The Secretary shall publish any such increased amount in the Federal Register.

"(B) For purposes of this subsection, the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to section 223(g).

"(C) In the case of a claim with respect to which the Secretary has approved an agreement pursuant to subparagraph (A), the Secretary shall provide the claimant and the person representing the claimant a written notice of—

"(i) the dollar amount of the past-due benefits (as determined before any applicable reduction under section 1127(a)) and the

dollar amount of the past-due benefits payable to the claimant,

"(ii) the dollar amount of the maximum fee which may be charged or recovered as determined under this paragraph, and

"(iii) a description of the procedures for review under paragraph (3).

"(3)(A) The Secretary shall provide by regulation for review of the amount which would otherwise be the maximum fee as determined under paragraph (2) if, within 15 days after receipt of the notice provided pursuant to paragraph (2)(C)—

"(i) the claimant, or the administrative law judge or other adjudicator who made the favorable determination, submits a written request to the Secretary to reduce the maximum fee, or

"(ii) the person representing the claimant submits a written request to the Secretary to increase the maximum fee.

Any such review shall be conducted after providing the claimant, the person representing the claimant, and the adjudicator with reasonable notice of such request and an opportunity to submit written information in favor of or in opposition to such request. The adjudicator may request the Secretary to reduce the maximum fee only on the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant's interest or on the basis of evidence that the fee is clearly excessive for services rendered.

"(B)(i) In the case of a request for review under subparagraph (A) by the claimant or by the person representing the claimant, such review shall be conducted by the administrative law judge who made the favorable determination or, if the Secretary determines that such administrative law judge is unavailable or if the determination was not made by an administrative law judge, such review shall be conducted by another person designated by the Secretary for such purpose.

"(ii) In the case of a request by the adjudicator for review under subparagraph (A), the review shall be conducted by the Secretary or by an administrative law judge or other person (other than such adjudicator) who is designated by the Secretary.

"(C) Upon completion of the review, the administrative law judge or other person conducting the review shall affirm or modify the amount which would otherwise be the maximum fee. Any such amount so affirmed or modified shall be considered the amount of the maximum fee which may be recovered under paragraph (2). The decision of the administrative law judge or other person conducting the review shall not be subject to further review.

"(4)(A) Subject to subparagraph (B), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Secretary shall, notwithstanding section 205(i), certify for payment out of such past-due benefits (as determined before any applicable reduction under section 1127(a)) to such attorney an amount equal to the maximum fee, but not in excess of 25 percent of such past-due benefits (as determined before any applicable reduction under section 1127(a)).

"(B) The Secretary shall not in any case certify any amount for payment to the attorney pursuant to this paragraph before the expiration of the 15-day period referred to in paragraph (3)(A) or, in the case of any review conducted under paragraph (3), before the completion of such review.

"(5) Any person who".

(2) TITLE XVI.—Paragraph (2)(A) of section 1631(d) of the Social Security Act (42 U.S.C. 1383(d)(2)(A)) is amended to read as follows:

"(2)(A) The provisions of section 206(a) (other than paragraphs (2)(B) and (4) thereof) shall apply to this part to the same extent as they apply in the case of title II, and in so applying such provisions 'section 1631(g)' shall be substituted for 'section 1127(a)'.".

(b) PROTECTION OF ATTORNEY'S FEES FROM OFFSETTING SSI BENEFITS.—Subsection (a) of section 1127 of such Act is amended by adding at the end the following new sentence: "A benefit under title II shall not be reduced pursuant to the preceding sentence to the extent that any amount of such benefit would not otherwise be available for payment in full of the maximum fee which may be recovered from such benefit by an attorney pursuant to section 206(a)(4).".

(c) LIMITATATION OF TRAVEL EXPENSES FOR REPRESENTATION OF CLAIMANTS AT ADMINISTRATIVE PROCEEDINGS.—Section 201(j) (42 U.S.C. 401(j)), section 1631(h) (42 U.S.C. 1383(h)), and section 1817(i) (42 U.S.C. 1395i(i)) of such Act are each amended by adding at the end the following new sentence: "The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made on or after January 1, 1991, and to reimbursement for travel expenses incurred on or after January 1, 1991.

SEC. 12807. NOTICE REQUIREMENTS.

(a) REQUIREMENTS.—

(1) TITLE II.—Section 205 of the Social Security Act (42 U.S.C. 405) is amended by inserting after subsection (r) the following new subsection:

"NOTICE REQUIREMENTS

"(s) The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary or by a State agency—

"(1) is written in simple and clear language, and

"(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration which services the recipient of the notice and a telephone number through which such office can be reached.".

(2) TITLE XVI.—Section 1631 of such Act (42 U.S.C. 1383) is amended by adding at the end the following:

"NOTICE REQUIREMENTS

"(n) The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary or by a State agency—

"(1) is written in simple and clear language, and

"(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration which services the recipient of the notice and a telephone number through which such office can be reached.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to notices issued on or after January 1, 1991.

SEC. 12808. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) IN GENERAL.—

(1) TITLE II.—Section 205(b) of the Social Security Act (42 U.S.C 405(b)) is amended by adding at the end the following new paragraph:

"(3)(A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any benefit under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to benefits under this title of choosing to reapply in lieu of requesting review of the determination.".

(2) TITLE XVI.—Section 1631(c)(1) of such Act (42 U.S.C 1383(c)(1)) is amended—

(A) by inserting "(A)" after "(c)(1)"; and

(B) by adding at the end the following:

"(B)(A) A failure to timely request review of an initial adverse determination with respect to an application for any payment under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for payments in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to payments under this title of choosing to reapply in lieu of requesting review of the determination.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to adverse determinations made on or after January 1, 1991.

SEC. 12809. TELEPHONE ACCESS TO THE SOCIAL SECURITY ADMINISTRATION

(a) REQUIRED MINIMUM LEVEL OF ACCESS TO LOCAL OFFICES.—In addition to such other access by telephone to offices of the Social Security Administration as the Secretary of Health and Human Services may consider appropriate, the Secretary shall maintain access by telephone to local offices of the Social Security Administration at the level of access generally available as of September 30, 1989.

(b) TELEPHONE LISTINGS.—The Secretary shall make such requests of local telephone utilities in the United States as are necessary to ensure that the listings subsequently maintained and published by such utilities for each locality include the address and telephone number for each local office of the Social Security Administration to which direct telephone access is reestablished under subsection (a) in such locality. With respect to any toll-free number maintained by the Social Security Administration, the required listing shall include the following statement: "For general information, call——", followed by the toll-free number.

(c) REPORT BY SECRETARY.—Not later than January 1, 1993, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report which—

(1) assesses the impact of the requirements established by this section on the Social Security Administration's allocation of resources, workload levels, and service to the public, and

(2) presents a plan for using new, innovative technologies to enhance access to the local offices of the Social Security Administration.

The plan described in paragraph (2) shall be directed at maintaining access by telephone to the offices of the Social Security Administration at a level which is at least as high as the level required under subsection (a).

(d) GAO REPORT.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing the level of telephone access by the public to the local offices of the Social Security Administration.

(e) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect 60 days after the date of the enactment of this Act.

SEC. 12810. VOCATIONAL REHABILITATION DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Pursuant to section 505 of the Social Security Disability Amendments of 1980, the Secretary of Health and Human Services shall develop and carry out under this section demonstration projects in each of not fewer than three States. Each such demonstration project shall be designed to assess the advantages and disadvantages of permitting disabled beneficiaries (as defined in paragraph (3)) to select, from among both public and private qualified vocational rehabilitation providers, providers of vocational rehabilitation services directed at enabling such beneficiaries to engage in substantial gainful activity. Each such demonstration project shall commence as soon as practicable after the date of the enactment of this Act and shall remain in operation until the end of fiscal year 1993.

(2) SCOPE AND PARTICIPATION.—Each demonstration project shall be of sufficient scope and open to sufficient participation by disabled beneficiaries so as to permit meaningful determinations under subsection (b).

(3) DISABLED BENEFICIARY.—For purposes of this section, the term "disabled beneficiary" means an individual who is entitled to disability insurance benefits under section 223 of the Social Security Act or benefits under section 202 of such Act based on such individual's own disability.

(b) MATTERS TO BE DETERMINED.—In the course of each demonstration project conducted under this section, the Secretary shall determine the following:

(1) the extent to which disabled beneficiaries participate in the process of selecting providers of rehabilitation services, and their reasons for participating or not participating;

(2) notable characteristics of participating disabled beneficiaries (including their impairments), classified by the type of provider selected;

(3) the various needs for rehabilitation demonstrated by participating disabled beneficiaries, classified by the type of provider selected;

(4) the extent to which providers of rehabilitation services which are not agencies or instrumentalities of States accept referrals of disabled beneficiaries under procedures in effect under section 222(d) of the Social Security Act as of the date of the enactment of this Act relating to reimbursement for such services and the most effective way of reimbursing such providers in accordance with such provisions;

(5) the extent to which providers participating in the demonstration projects enter into contracts with third parties for services and the types of such services;

(6) whether, and if so the extent to which, disabled beneficiaries who select their own providers of rehabilitation services are more likely to engage in substantial gainful activity and thereby terminate their entitlement under section 202 or 223 of the Social Security Act than those who do not;

(7) the cost effectiveness of permitting disabled beneficiaries to select their providers of vocational rehabilitation services, and the comparative cost effectiveness of different types of providers; and

(8) the feasibility of establishing a permanent national program for allowing disabled beneficiaries to choose their own qualified vocational rehabilitation provider and any additional safeguards which would be necessary to assure the effectiveness of such a program.

(c) PROCEDURAL REQUIREMENTS.—

(1) SELECTION OF PARTICIPANTS.—The Secretary shall select for participation in each demonstration project under this section disabled beneficiaries for whom there is a reasonable likelihood that rehabilitation services provided to them will result in performance by them of substantial gainful activity for a continuous period of nine months prior to termination of the project.

(2) SELECTION OF PROVIDERS OF REHABILITATION SERVICES.—The Secretary shall select qualified rehabilitation agencies to serve as providers of rehabilitation services in the geographic area covered by each demonstration project conducted under this section. The Secretary shall make such selection after consultation with disabled individuals and organizations representing such individuals. With respect to each demonstration project, the Secretary may approve on a case-by-case basis additional qualified rehabilitation agencies from outside the geographic area covered by the project to serve particular disabled beneficiaries.

(3) REIMBURSEMENT OF PROVIDERS.—

(A) Except as provided in subparagraph (B), providers of rehabilitation services under each demonstration project under this section shall be reimbursed in accordance with the procedures in effect under the provisions of section 222(d) of the Social Security Act as of the date of the enactment of this Act relating to reimbursement for services provided under such section.

(B) The Secretary may contract with providers of rehabilitation services under each demonstration project under this section on a fee-for-service basis in order to—

(i) conduct vocational evaluations directed at identifying those disabled beneficiaries who have reasonable potential for engaging in substantial gainful activity and thereby terminating their entitlement to benefits under section 202 or 223 of the Social Security Act if provided with vocational rehabilitation services as participants in the project, and

(ii) develop jointly with each disabled beneficiary so identified an individualized, written rehabilitation program.

(C) Each written rehabilitation program developed pursuant to subparagraph (B)(ii) for any participant shall include among its provisions—

(i) a statement of the participant's rehabilitation goal,

(ii) a statement of the specific rehabilitation services to be provided and of the identity of the provider to furnish such services,

(iii) the projected date for the initiation of such services and their anticipated duration and

(iv) objective criteria and an evaluation procedure and schedule for determining whether the stated rehabilitation goal is being achieved.

(d) REPORTS.—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an interim written report on the progress of the demonstration projects conducted under this section not later than April 1, 1992, together with any related data and materials which the Secretary considers appropriate. The Secretary shall submit a final written report to such Committees addressing the matters to be determined under subsection (b) not later than April 1, 1994.

(e) STATE.—For purposes of this section, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(f) CONTINUATION OF DEMONSTRATION AUTHORITY.—Section 505(c) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) is amended to read as follows:

"(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section (other than demonstration projects conducted under section 12810 of the Omnibus Budget Reconciliation Act of 1990) no later than October 1, 1993.".

(g) NEW SPENDING AUTHORITY.—Any new spending authority provided by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 12811. EXEMPTION FOR CERTAIN ALIENS RECEIVING AMNESTY UNDER THE IMMIGRATION AND NATIONALITY ACT, FROM PROSECUTION FOR MISREPORTING OF EARNINGS OR MISUSE OF SOCIAL SECURITY ACCOUNT NUMBERS OR SOCIAL SECURITY CARDS.

(a) IN GENERAL.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), an alien—

"(A) whose status is adjusted to that of lawful temporary resident under section 210 or 245A of the Immigration and Nationality Act or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,

"(B) whose status is adjusted to that of permanent resident—

"(i) under section 202 of the Immigration Reform and Control Act of 1986, or

"(ii) pursuant to section 249 of the Immigration and Nationality Act, or

"(C) who is granted special immigrant status under section 101(a)(27)(I) of the Immigration and Nationality Act,

shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) if such conduct is alleged to have occurred prior to 60 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1990.

"(2) Paragraph (1) shall not apply with respect to conduct (described in subsection (a)(7)(C)) consisting of—

"(A) selling a card that is, or purports to be, a social security card issued by the Secretary,

"(B) possessing a social security card with intent to sell it, or

"(C) counterfeiting a social security card with intent to sell it.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—So much of section 208 of such Act as precedes subsection (d) (as added by subsection (a) of this section) is amended—

(1) in subsection (a), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in subsection (g), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by redesignating subsections (a) through (h) as paragraphs (1) through (8), respectively;

(4) by inserting "(a)" before "Whoever";

(5) by inserting "(b)" at the beginning of the next-to-last undesignated paragraph; and

(6) by inserting "(c)" at the beginning of the last undesignated paragraph.

SEC. 12812. REDUCTION OF AMOUNT OF WAGES NEEDED TO EARN A YEAR OF COVERAGE APPLICABLE IN DETERMINING SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.

(a) IN GENERAL.—Section 215(a)(1)(C)(ii) of the Social Security Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "of not less than 25 percent" the first place it appears and all that follows through "1977) if" and inserting "of not less than 25 percent (in the case of a year after 1950 and before 1978) of the maximum amount which (pursuant to subsection (e)) may be counted for such year, or 25 percent (in the case of a year after 1977 and before 1991) or 15 percent (in the case of a year after 1990) of the maximum amount which (pursuant to subsection (e)) could be counted for such year if".

(b) RETENTION OF CURRENT AMOUNT OF WAGES NEEDED TO EARN A YEAR OF COVERAGE FOR PURPOSES OF WINDFALL ELIMINATION PROVISION.—Section 215(a)(7)(D) of such Act (42 U.S.C. 415(a)(7)(D)) is amended—

(1) in the first sentence, by striking "(as defined in paragraph (1)(C)(ii))"; and

(2) by adding at the end (after the table) the following new flush sentence:

"For purposes of this subparagraph, the term 'year of coverage' shall have the meaning provided in paragraph (1)(C)(ii), except that the reference to '15 percent' therein shall be deemed to be a reference to '25 percent'.".

SEC. 12813. ELIMINATION OF ELIGIBILITY FOR RETROACTIVE BENEFITS FOR CERTAIN INDIVIDUALS ELIGIBLE FOR REDUCED BENEFITS.

(a) IN GENERAL.—Section 202(j)(4) of the Social Security Act (42 U.S.C. 402(j)(4)) is amended—

(1) in subparagraph (A), by striking "if the effect" and all that follows and inserting "if the amount of the monthly benefit to which such individual would otherwise be entitled for any such month would be subject to reduction pursuant to subsection (q).";and

(2) in subparagraph (B), by striking clauses (i) and (iv) and by redesignating clauses (ii), (iii), and (v) as clauses (i), (ii), and (iii), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits filed on or after January 1, 1991.

SEC. 12814. CHARGING OF EARNINGS OF CORPORATE DIRECTORS.

(a) IN GENERAL.—

(1) Title II of the Social Security Act is amended by moving the last undesignated paragraph of section 211(a) of such title (as added by section 9022(a) of the Omnibus Budget Reconciliation Act of 1987) to the end of section 203(f)(5) of such title.

(2) The undesignated paragraph moved to section 203(f)(5) of the Social Security Act by paragraph (1) is amended—

(A) by striking "Any income of an individual which results from or is attributable to" and inserting "(E) For purposes of this section, any individual's net earnings from self-employment which result from or are attributable to",

(B) by striking "the income is actually paid" and inserting "the income, on which the computation of such net earnings from self-employment is based, is actually paid"; and

(C) by striking "unless it was" and inserting "unless such income was".

(3) The last undesignated paragraph of section 1402(a) of the Internal Revenue Code of 1986 (as added by section 9022(b) of the Omnibus Budget Reconciliation Act of 1987) is repealed.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services performed in taxable years beginning after December 31, 1990.

SEC. 12815. COLLECTION OF EMPLOYEE SOCIAL SECURITY AND RAILROAD RETIREMENT TAXES ON TAXABLE GROUP-TERM LIFE INSURANCE PROVIDED TO RETIREES.

(a) SOCIAL SECURITY TAXES.—Section 3102 of the Internal Revenue Code of 1986 (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-TERM LIFE INSURANCE BENEFITS.—

"(1) IN GENERAL.—In the case of any payment for group-term life insurance to which this subsection applies—

"(A) subsection (a) shall not apply,

"(B) the employer shall separately include on the statement required under section 6051—

"(i) the portion of the wages which consists of payments for group-term life insurance to which this subsection applies, and

"(ii) the amount of the tax imposed by section 3101 on such payments, and

"(C) the tax imposed by section 3101 on such payments shall be paid by the employee.

"(2) BENEFITS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any payment for group-term life insurance to the extent—

"(A) such payment constitutes wages and

"(B) such payment is for coverage for periods during which an employment relationship no longer exists between the employee and the employer."

(b) RAILROAD RETIREMENT TAXES.—Section 3202 of such Code (relating to deduction of tax from compensation) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-TERM LIFE INSURANCE BENEFITS.—

"(1) IN GENERAL.—In the case of any payment for group-term life insurance to which this subsection applies—

"(A) subsection (a) shall not apply,

"(B) the employer shall separately include on the statement required under section 6051—

"(i) the portion of the compensation which consists of payments for group-term life insurance to which this subsection applies, and

"(ii) the amount of the tax imposed by section 3101 on such payments. and

"(C) the tax imposed by section 3101 on such payments shall be paid by the employee.

"(2) BENEFITS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any payment for group-term life insurance to the extent—

"(A) such payment constitutes compensation, and

"(B) such payment is for coverage for periods during which an employment relationship no longer exists between the employee and the employer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage provided after December 31, 1990.

SEC. 12816. CONSOLIDATION OF OLD METHODS OF COMPUTING PRIMARY INSURANCE AMOUNTS.

(a) CONSOLIDATION OF COMPUTATION METHODS.—

(1) IN GENERAL.—Section 215(a)(5) of the Social Security Act (42 U.S.C. 415(a)(5)) is amended—

(A) by striking "For purposes of" and inserting "(A) Subject to subparagraphs (B), (C), (D) and (E), for purposes of";

(B) by striking the last sentence; and

(C) by adding at the end the following new subparagraphs:

"(B)(i) Subject to clauses (ii), (iii), and (iv), and notwithstanding any other provision of law, the primary insurance amount of any individual described in subparagraph (C) shall be, in lieu of the primary insurance amount as computed pursuant to any of the provisions referred to in subparagraph (D), the primary insurance amount computed under subsection (a) of section 215 as in effect in December 1978, without regard to subsection (b)(4) and (c) of such section as so in effect.

"(ii) The computation of a primary insurance amount under this subparagraph shall be subject to section 104(j)(2) of the Social Security Amendments of 1972 (relating to the number of elapsed years under section 215(b)).

"(iii) In computing a primary insurance amount under this subparagraph, the dollar amount specified in paragraph (3) of section 215(a) (as in effect in December 1978) shall be increased to $11.50.

"(iv) In the case of an individual to whom section 215(d) applies, the primary insurance amount of such individual shall be the greater of—

"(I) the primary insurance amount computed under the preceding clauses of this subparagraph, or

"(II) the primary insurance amount computed under section 215(d).

"(C) An individual is described in this subparagraph if—

"(i) paragraph (1) does not apply to such individual by reason of such individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979, and

"(ii) such individual's primary insurance amount computed under this section as in effect immediately before the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 would have been computed under the provisions described in subparagraph (D).

"(D) The provisions described in this subparagraph are—

"(i) the provisions of this subsection as in effect prior to the enactment of the Social Security Amendments of 1965, if such provi-

sions would preclude the use of wages prior to 1951 in the computation of the primary insurance amount,

"(ii) the provisions of section 209 as in effect prior to the enactment of the Social Security Act Amendments of 1950, and

"(iii) the provisions of section 215(d) as in effect prior to the enactment of the Social Security Amendments of 1977.

"(E) For purposes of this paragraph, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.".

(2) COMPUTATION OF PRIMARY INSURANCE BENEFIT UNDER 1939 ACT.—

(A) DIVISION OF WAGES BY ELAPSED YEARS.—Section 215(d)(1) of such Act (42 U.S.C. 415(d)(1)) is amended—

(i) in subparagraph (A), by inserting "and subject to section 104(j)(2) of the Social Security Amendments of 1972" after "thereof"; and

(ii) by striking "(B) For purposes" in subparagraph (B) and all that follows through clause (ii) of such subparagraph and inserting the following:

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect)—

"(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual—

"(I) shall, in the case of an individual who attained age 21 prior to 1950, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 20, or 1936 if later, and prior to the earlier of the year of death or 1951, except that such divisor shall not include any calendar year entirely included in a period of disability, and in no case shall the divisor be less than one, and

"(II) shall, in the case of an individual who died before 1950 and before attaining age 21, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the second year prior to the year of death, or 1936 if later, and prior to the year of death, and in no case shall the divisor be less than one; and

"(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who either attained age 21 after 1949 or died after 1949 before attaining age 21, shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after 1949 and prior to 1951.".

(B) CREDITING OF WAGES TO YEARS.—Clause (iii) of section 215(d)(1)(B) of such Act (42 U.S.C. 415(d)(1)(B)(iii)) is amended to read as follows:

"(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the computation base year (as defined in subsection (b)(2) as in effect in December 1977) immediately preceding the earliest year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the computation base year (as so defined) immediately preceding the earliest year used in computing the amount of the divisor and to each of the computation base years (as so defined) consecutively preceding that year, with any remainder less than $3,000 being credited to the computation base year (as so defined) immediately preceding the earliest year to which a full $3,000 increment was credited; and".

(C) APPLICABILITY.—Section 215(d) of such Act is further amended—

(i) in paragraph (2)(B), by striking "except as provided in paragraph (3),";

(ii) by striking paragraph (2)(C) and inserting the following:

"(C)(i) who becomes entitled to benefits under section 202(a) or 223 or who dies, or

"(ii) whose primary insurance amount is required to be recomputed under paragraph (2), (5), or (7) of subsection (f) or under section 231."; and

(iii) by striking paragraphs (3) and (4).

(3) CONFORMING AMENDMENTS.—

(A) Section 215(i)(4) of such Act (42 U.S.C. 415(i)(4)) is amended in the first sentence by inserting "and as amended by section 12816 of the Omnibus Budget Reconciliation Act of 1990" after "as then in effect".

(B) Section 203(a)(8) of such Act (42 U.S.C. 403(a)(8)) is amended in the first sentence by inserting "and as amended by section 12816 of the Omnibus Budget Reconciliation Act of 1990," after "December 1978" the second place it appears.

(C) Section 215(c) of such Act (42 U.S.C. 415(c)) is amended by striking "This" and inserting "Subject to the amendments made by section 12816 of the Omnibus Budget Reconciliation Act of 1990, this".

(D) Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by striking the period at the end of the first sentence and inserting ", including a primary insurance amount computed under any such subsection whose operation is modified as a result of the amendments made by section 12816 of the Omnibus Budget Reconciliation Act of 1990.".

(E)(i) Section 215(d) of such Act (42 U.S.C. 415(d)) is amended by redesignating paragraph (5) as paragraph (3).

(ii) Subsections (a)(7)(A), (a)(7)(C)(ii), and (f)(9)(A) of section 215 of such Act (42 U.S.C. 415) are each amended by striking "subsection (d)(5)" each place it appears and inserting "subsection (d)(3)".

"(iii) Section 215(f)(9)(B) of such Act (42 U.S.C. 415(f)(9)(B)) is amended by striking "subsection (a)(7) or (d)(5)" each place it appears and inserting "subsection (a)(7) or (d)(3)".

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to the computation of the primary insurance amount of any insured individual in any case in which a person becomes entitled to benefits under section 202 or 223 on the basis of such insured individual's wages and self-employment income for months after the 18-month period following the month in which this Act is enacted, except that such amendments shall not apply if any person is entitled to benefits based on the wages and self-employment income of such insured individual for the month preceding the initial month of such person's entitlement to such benefits under section 202 or 223.

(B) RECOMPUTATIONS.—The amendments made by this subsection shall apply with respect to any primary insurance amount upon the recomputation of such primary insurance amount if such recomputation is first effective for monthly benefits for months after the 18-month period following the month in which this Act is enacted.

(b) BENEFITS IN CASE OF VETERANS.—Section 217(b) of such Act (42 U.S.C. 417(b)) is amended—

(1) in the first sentence of paragraph (1), by striking "Any" and inserting "Subject to paragraph (3), any"; and

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

"(3)(A) The preceding provisions of this subsection shall apply for purposes of determining the entitlement to benefits under section 202, based on the primary insurance amount of the deceased World War II veteran, of any surviving individual only if such surviving individual makes application for such benefits before the end of the 18-month period after the month in which the Omnibus Budget Reconciliation Act of 1990 was enacted.

"(B) Subparagraph (A) shall not apply if any person is entitled to benefits under section 202 based on the primary insurance amount of such veteran for the month preceding the month in which such application is made.".

(c) APPLICABILITY OF ALTERNATIVE METHOD FOR DETERMINING QUARTERS OF COVERAGE WITH RESPECT TO WAGES IN THE PERIOD FROM 1937 TO 1950.—

(1) APPLICABILITY WITHOUT REGARD TO NUMBER OF ELAPSED YEARS.—Section 213(c) of such Act (42 U.S.C. 413(c)) is amended—

(A) by inserting "and 215(d)" after "214(a)"; and

(B) by striking "except where—" and all that follows and inserting the following: "except where such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to such individual for periods after 1950.".

(2) APPLICABILITY WITHOUT REGARD TO DATE OF DEATH.—Section 155(b)(2) of the Social Security Amendments of 1967 is amended by striking "after such date".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to individuals who—

(A) make application for benefits under section 202 of the Social Security Act after the 18-month period following the month in which this Act is enacted, and

(B) are not entitled to benefits under section 227 or 228 of such Act for the month in which such application is made.

Sec. 12817. SUSPENSION OF DEPENDENT'S BENEFITS WHEN THE WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY.

(a) IN GENERAL.—Section 223(e) of the Social Security Act is amended by—

(1) by inserting "(1)" after "(e)"; and

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

"(2) No benefit shall be payable under section 202 on the basis of the wages and self-employment income of an individual entitled to a benefit under subsection (a)(1) of this section for any month for which the benefit of such individual under subsection (a)(1) is not payable under paragraph (1).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months after the date of the enactment of this Act.

Sec. 12818. TIER 1 RAILROAD RETIREMENT TAX RATES EXPLICITLY DETERMINED BY REFERENCE TO SOCIAL SECURITY TAXES.

(a) TAX ON EMPLOYEES.—Subsection (a) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and (2) by striking "employee:" and all that follows and inserting "employee. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 for the calendar year."

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Paragraph (1) of section 3211(a) of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "representative:" and all that follows and inserting "representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year."

(c) TAX ON EMPLOYERS.—Subsection (a) of section 3221 of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employer:" and all that follows and inserting "employer. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3111 for the calendar year."

SEC. 12819. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "1990" and inserting "1992".

SEC. 12820. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) IN GENERAL.—

(1) AMENDMENT RELATING TO SECTION 7088 OF PUBLIC LAW 100-690.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended, in the last undesignated paragraph, by striking "section 405(c)(2) of this title" and inserting "section 205(c)(2)".

(2) AMENDMENTS RELATING TO SECTION 322 OF PUBLIC LAW 98-21.—Paragraphs (1) and (2) of section 322(b) of the Social Security Amendments of 1983 (Public Law 98-21, 97 Stat. 121) are each amended by inserting "the first place it appears" before "the following".

(3) AMENDMENT RELATING TO SECTION 1011B(b)(4) OF PUBLIC LAW 100-647.—Section 211(a) of the Social Security Act (42 U.S.C. 411(a)) is amended by redesignating the second paragraph (14) as paragraph (15).

(4) AMENDMENT RELATING TO SECTION 2003(d) OF PUBLIC LAW 100-647.—Paragraph (3) of section 3509(d) of the Internal Revenue Code of 1986 (as amended by section 2003(d) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647; 102 Stat. 3598)) is further amended by striking "subsection (d)(4)" and inserting "subsection (d)(3)".

(5) AMENDMENT RELATING TO SECTION 10208 OF PUBLIC LAW 101-239.—Section 209(a)(7)(B) of the Social Security Act (42 U.S.C. 409(a)(7)(B)) is amended by striking "subparagraph (B)" in the matter following clause (ii) and inserting "clause (ii)".

(b) EFFECTIVE DATES.—The amendments made by subsection (a) shall be effective as if included in the enactment of the provision to which it relates.

Subtitle J—Miscellaneous and Technical Amendments Relating to the Medicare Program

PART 1—NO-COST PROVISIONS

SEC. 12901. PATIENT SELF-DETERMINATION.

(a) PROVISIONS RELATING TO MEDICARE PART A.—

(1) IN GENERAL.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (O),

(B) by striking the period at the end of subparagraph (P) and inserting a comma, and

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

"(Q) in the case of a hospital, at the time of each adult's admission (other than emergency admission) as an inpatient, or, in the case of a hospice program, at the time of each adult's election of hospice benefits under section 1812—

"(i) to inquire whether the adult has executed an advanced directive (described in section 1878(b)(2));

"(ii) to document in the adult's medical record whether or not the individual has executed such a directive; and

"(iii) to provide the adult with the hospital's or program's written policy concerning the implementation of advanced directives (including such policies relating to transfers of individuals, consistent with State law); and

"(R) in the case of a hospital or hospice program, to educate the hospital's or program's medical staff and other appropriate personnel on State law (whether statutory or as recognized by the courts of the State) regarding patient self-determination;".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to agreements as the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(b) PROVISIONS RELATING TO PARTS A AND B.—

(1) CONDITION OF PARTICIPATION FOR HOME HEALTH AGENCIES.—Section 1866(a)(1)(Q) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(Q)), as inserted by subsection (a)(1), is amended—

(A) in subparagraph (Q) before clause (i), by inserting before the dash the following: "and, in the case of a home health agency, in advance of the adult coming under the care of such agency",

(B) in clauses (ii) and (iii) of subparagraph (Q) and in subparagraph (R), by striking "or program's" and inserting ", program's, or agency's;", and

(C) in subparagraph (Q), by striking "or hospice program" and inserting ", hospice program, or home health agency".

(2) AS A CONTRACTUAL CONDITION FOR HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.—Section 1876(c) of such Act (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

"(8) Each risk-sharing contract and reasonable cost reimbursement contract under this section and each contract with an organization to receive payment on a prepayment basis under section 1833(a)(1)(A) shall provide that—

"(A) at the time of each adult's enrollment with the organization (whether under this section or otherwise), the organization shall—

"(i) inquire as to whether the adult has executed an advanced directive (as defined in section 1868(b)(2)),

"(ii) document in the adult's medical record whether or not the individual has executed such an advanced directive, and

"(iii) provide the adult with the organization's written policy concerning the implementation of advanced directives (including such policies relating to transfers of individuals, consistent with State law); and

"(B) the organization shall educate the organization's medical staff and other appropriate personnel on State law (whether statutory or as recognized by the courts of the State) regarding patient self-determination.".

(3) PROVISION OF INFORMATION REGARDING PATIENTS' RIGHTS.—

(A) IN GENERAL.—Title XVIII of the Social Security Act is amended by inserting after section 1867 the following new section:

"PROVISION OF INFORMATION REGARDING PATIENTS' RIGHTS

"SEC. 1868. (a) REQUIRING PROVISION OF PATIENTS' RIGHTS INFORMATION.—

"(1) IN GENERAL.—Except as provided in paragraph (3), each hospital, home health agency, or hospice program with an agreement in effect under section 1866 and each eligible organization with a contract under section 1876 shall provide, at the time specified in paragraph (2), each adult patient with information described in subsection (b) regarding patient's rights.

"(2) WHEN INFORMATION PROVIDED.—The information required to be provided under paragraph (1) shall be provided—

"(A) in the case of a hospital, at the time of each adult's admission as an inpatient to the hospital (or, in the case of an emergency admission, at such later time as may be consistent with medical practice);

"(B) in the case of a hospice program, at the time of each adult's election of hospice benefits under section 1812;

"(C) in the case of a home health agency, in advance of the individual coming under the care of such agency; and

"(D) in the case of an eligible organization, at the time of each adult's enrollment with the organization.

"(3) EXEMPTION BASED ON MORAL, ETHICAL, OR RELIGIOUS BELIEFS.—Paragraph (1) shall not apply in the case of a provider of services or eligible organization that transmits a letter to the Secretary that certifies that the Board of Directors (or comparable executive body) of the provider or organization has voted not to be subject to paragraph (1) based upon moral, ethical, or religious beliefs.

"(b) PATIENTS' RIGHTS INFORMATION.—

"(1) IN GENERAL.—The information described in this subsection is information regarding the individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment, and the right to formulate advanced directives (as defined in paragraph (2)).

"(2) ADVANCE DIRECTIVE DEFINED.—In this subsection and for purposes of other sections of this title, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law and relating to the provision of such care when the individual is incapacitated.

"(c) PROHIBITING DENIAL OF CARE BASED ON ADVANCED DIRECTIVE DECISION.—A hospital, hospice program, or home health agency with an agreement in effect under section 1866 and an eligible organization with any contract in effect under section 1876 may not deny the initial provision of care or otherwise discriminate against an individual (whether or entitled to benefits under this title) based on whether or not the individual has executed an advanced directive.

"(d) PROHIBITING CERTAIN WITNESSING OF ADVANCED DIRECTIVES.—Notwithstanding any provision of State law, an employee of a hospital may not serve as a witness to an advanced directive executed by an individual entitled to benefits under this title (or under a State plan approved under title XIX) while the individual is an inpatient in the hospital.

"(e) ENFORCEMENT.—Any hospital, hospice program, home health agency, or eligible organization that violates subsection (a) or (c), is subject to a civil money penalty in an amount not to exceed $2,000 for each such violation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subsection in the same manner as they

apply to a penalty or proceeding under section 1128A(a).".

(B) OBLIGATION OF PHYSICIANS TO MAKE INFORMATION AVAILABLE CONCERNING PATIENT SELF-DETERMINATION AVAILABLE.—Section 1156(a) of such Act (42 U.S.C. 1320c-5(a)) is amended by adding after and below paragraph (3) the following:

"It shall be the obligation of each physician who provides health care services for which payment may be made (in whole or in part) under this Act, to assure that written information is made available to the physician's adult patients regarding their rights under State law to make decisions concerning medical care.".

(C) ASSISTANCE IN DEVELOPMENT AND DISTRIBUTION OF PATIENT'S RIGHTS DOCUMENT.—

(i) DOCUMENT DEVELOPMENT.—The Secretary of Health and Human Services shall assist, in each State, an appropriate State agency, association, or private entity in developing a document that describes patients' rights specified in section 1868(b) of the Social Security Act in the State and that could be distributed to providers and physicians for use in complying with the requirements imposed by the amendments made by this subsection.

(ii) DOCUMENT DISTRIBUTION.—The Secretary shall assist such an agency, association, or entity in the distribution of copies of documents developed under clause (i).

(D) INCLUSION OF CERTAIN INFORMATION IN ANNUAL MEDICARE BENEFICIARY MAILING.—Section 1804 of the Social Security Act (42 U.S.C. 1395b-2) is amended—

(i) by striking "and" at the end of paragraph (2),

(ii) by striking the period at the end of paragraph (3) and inserting ", and", and

(iii) by inserting after paragraph (3) the following new paragraph:

"(4) a general description of patients' rights to make decisions regarding advance directives (described in section 1868(b)(2)) and where individuals may receive information concerning such rights in each of the States.".

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply to participation agreements as of the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(B) The amendment made by paragraph (2) shall apply to contracts entered into or renewed on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(C) Section 1868(a) of the Social Security Act (as inserted by paragraph (3)(A)) shall apply to adults who are admitted to a hospital, provided hospice care, first home under the care of a home health agency, or enroll with an eligible organization on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(D) Section 1868(c) of the Social Security Act (as inserted by paragraph (3)(A)) shall apply to denials of care occurring on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(E) Section 1868(d) of the Social Security Act (as inserted by paragraph (3)(A)) shall apply to advance directives executed on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act.

(F) The amendments made by paragraph (3)(D) shall first apply to the annual notice to be mailed in 1992.

(2) STUDY TO ASSESS IMPLEMENTATION OF A PATIENT'S RIGHT TO PARTICIPATE II. AND DIRECT HEALTH CARE DECISIONS AFFECTING THE PATIENT.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall (subject to subparagraph (B)) enter into an agreement with the Institute of Medicine of the National Academy of Sciences to conduct a study with respect to the context in which directed health care decisions (including advance directives) are made and carried out, including the incidence and processes of decision-making about life-sustaining treatment that occur with and without advance directives.

(B) ARRANGEMENTS FOR STUDY.—The Secretary shall request the Institute of Medicine of the National Academy of Sciences to submit an application to conduct the study described in subparagraph (A). If the Institute submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study within 28 days of the date the application is received. If the Institute does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(C) REPORT.—The results of the study shall be reported to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate and the Secretary by not later than 4 years after the date of the enactment of this Act. Such report shall include such recommendations for legislation as may be appropriate to carry out further the purpose of this subsection.

(5) PUBLIC EDUCATION DEMONSTRATION PROJECT.—The Secretary of Health and Human Services, no later than 6 months after the date of the enactment of this Act, shall develop and implement a demonstration project in selected States to inform the public of the option to execute advance directives and of a patient's right to participate and direct health care decisions. The Secretary shall report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the results of the project and on whether such project should be expanded to cover all the States.

SEC. 12902. MISCELLANEOUS AND TECHNICAL PROVISIONS RELATING TO PART A.

(a) WAIVER OF LIABILITY FOR SKILLED NURSING FACILITIES AND HOSPICES.—

(1) SKILLED NURSING FACILITIES.—The second sentence of section 9126(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "October 31, 1990" and inserting "December 31, 1995".

(2) HOSPICES.—Section 9305(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act.

(b) HOSPITAL OBLIGATIONS WITH RESPECT TO TREATMENT OF EMERGENCY MEDICAL CONDITIONS.—

(1) CIVIL MONETARY PENALTIES.—Section 1867(d)(2)(A) of the Social Security Act (42 U.S.C. 1395dd(d)(2)(A)) is amended by striking "knowingly" and inserting "negligently".

(2) APPLICATION OF PENALTIES TO SMALL HOSPITALS.—Section 1867(d)(2)(A) of such Act (42 U.S.C. 1395dd(d)(2)(A)) is amended by inserting "(or not more than $25,000 in the case of a hospital with less than 100 beds)" after "$50,000".

(3) TERMINATION OF HOSPITAL PROVIDER AGREEMENTS.—

(A) Section 1867 of such Act (42 U.S.C. 1395dd) is further amended—

(i) by striking paragraph (1) of subsection (d),

(ii) by redesignating paragraphs (2) and (3) of subsection (d) as paragraph (1) and (2), respectively, and

(iii) in subsection (c)(2)(C), by striking "(d)(2)(C)" and inserting "(d)(1)(C)".

(B) Section 1866(a)(1)(I)(i) of such Act (42 U.S.C. 1395cc(a)(1)(I)(i)) is amended by inserting "and to meet the requirements of such section" before the comma at the end.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions occurring on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(c) INSPECTOR GENERAL STUDY OF PROHIBITION ON HOSPITAL EMPLOYMENT OF PHYSICIANS.—

(1) STUDY.—The Secretary of Health and Human Services (acting through the Inspector General of the Department of Health and Human Services) shall conduct a study of the effect of State laws prohibiting the employment of physicians by hospitals on the availability and accessibility of trauma and emergency care services, and shall include in such study an analysis of the effect of such laws on the ability of hospitals to meet the requirements of section 1867 of the Social Security Act relating to the examination and treatment of individuals with an emergency medical condition and women in labor.

(2) REPORT.—By not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1).

(d) DESIGNATION OF RURAL PRIMARY CARE HOSPITALS.—

(1) PRIORITY DESIGNATIONS OF BORDER STATE HOSPITALS.—Section 1820(i)(2)(C) of the Social Security Act (42 U.S.C. 1395i-4(i)(2)(C)) is amended by adding at the end the following new sentence: "In designating facilities as rural primary care hospitals under this subparagraph, the Secretary shall give preference to facilities not meeting the requirements of clause (i) of subparagraph (A) that have entered into an agreement described in subsection (g)(2) with a rural health network located in a State receiving a grant under subsection (a)(1).".

(2) ELIGIBILITY OF CERTAIN CLOSED HOSPITALS.—Section 1820(f)(1)(B) of such Act (42 U.S.C. 1395i-4(f)(1)(B)) is amended by striking "hospital," and inserting the following: "hospital (or, in the case of a facility that closed during the 12-month period that ends on the date the facility applies for such designation, at the time the facility closed),".

(3) ELIGIBILITY OF URBAN HOSPITALS.—Section 1820(f)(1)(A) of such Act (42 U.S.C. 1395i-4(f)(1)(A)) is amended by striking the semicolon and inserting the following: ", or is located in a county whose geographic area is substantially larger than the average geographic area for urban counties in the United State and whose hospital service area is characteristic of service areas of hospitals located in rural areas;".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) shall take effect on the date of the enactment of this Act.

(e) SKILLED NURSING FACILITY ROUTINE COST LIMITS.—

(1) IN GENERAL.—Section 6024 of the Omnibus Budget Reconciliation Act of 1989 is

amended by adding at the end the following new sentence: "The Secretary shall update such costs under such section for cost reporting periods beginning on or after October 1, 1989, by using cost reports submitted by skilled nursing facilities for cost reporting periods ending not earlier than January 31, 1988, and not later than December 31, 1988.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(f) CLARIFICATION OF EXTENSION OF WAIVER FOR FINGER LAKES AREA HOSPITAL CORPORATION.—

(1) IN GENERAL.—The second sentence of section 1886(c)(4) of the Social Security Act (42 U.S.C. 1395ww(c)(4)) is amended by striking "rate of increase from" and inserting "payments under the State system as compared to aggregate payments which would have been made under the national system since".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(g) ENROLLMENT IN PART A FOR HMO MEMBERS.—

(1) Section 1818(c) of the Social Security Act (42 U.S.C. 1395i-2(c)) is amended—

(A) by striking "and" at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting a semicolon, and

(C) by adding at the end the following new paragraphs:

"(7) an individual who meets the conditions of subsection (a) may enroll under this part during a special enrollment period that includes any month during any part of which the individual is enrolled under section 1876 with an eligible organization and ending with the last day of the 8th consecutive month in which the individual is at no time so enrolled;

"(8) in the case of an individual who enrolls during a special enrollment period under paragraph (7)—

"(A) in any month of the special enrollment period in which the individual is at any time enrolled under section 1876 with an eligible organization or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(B) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls; and

"(9) in applying the provisions of section 1839(b), there shall not be taken into account months for which the individual can demonstrate that the individual was enrolled under section 1876 with an eligible organization.".

(2) The amendment made by paragraph (1) shall take effect on February 1, 1991.

(h) NURSING HOME REFORM AMENDMENTS.—

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1864(d) of the Social Security Act on the basis of the State's failure to meet the requirement of section 1819(e)(1)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing requirements under section 1819(f)(2)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

(2) DISCLOSURE OF INFORMATION OF QUALITY ASSESSMENT AND ASSURANCE COMMITTEES.—Section 1819(b)(1)(B) of the Social Security Act (42 U.S.C. 1395i-3(b)(1)(B)) is amended by adding at the end the following new sentence: "A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this subparagraph.".

(3) PERIOD FOR RESIDENT ASSESSMENT.—Section 1819(b)(3)(C)(i)(I) of such Act (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking "4 days" and inserting "14 days".

(4) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1819(c)(1)(A)(iv) of such Act (42 U.S.C. 1396i-3(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and to access to current clinical records of the resident promptly upon request by the resident".

(5) CLARIFICATION ON FINDINGS OF NEGLECT.—Section 1819(g)(1)(C) of such Act (42 U.S.C. 1396i-3(g)(1)(C)) is amended by adding at the end the following: "A State shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.".

(6) TIMING OF PUBLIC DISCLOSURE OF SURVEY RESULTS.—Section 1819(g)(5)(A)(i) of such Act (42 U.S.C. 1396i-3(g)(5)(A)(i)) is amended by adding at the end the following: "within 14 calendar days after the date such information is made available to those facilities.".

(7) MISCELLANEOUS.—(A) Section 1819(c)(5)(B)(i) of such Act (42 U.S.C. 1396i-3(c)(5)(B)(i)) is amended by striking "under this title" and inserting "under title XIX".

(B) The third sentence of section 1819(c)(2)(A) of such Act (42 U.S.C. 1395i-3(c)(2)(A)) is amended by striking "clauses (iii) and (iv)" and inserting "clause (iv)".

(8) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(i) STATE WAIVER AUTHORITY.—Section 1814(b) of the Social Security Act (42 U.S.C. 1395f(b)) is amended—

(1) in paragraph (3)(B), by striking "October 1, 1983" and inserting "January 1, 1991";

(2) in the second sentence, by striking "seventh month" and inserting "37th month"; and

(3) by adding at the end the following: "If, by the end of such 36-month period, the Secretary determines, based on evidence submitted by the Governor of the State, that neither of the conditions described in subparagraph (A) or (B) of paragraph (3) continues to apply, the Secretary shall continue without interruption payment to hospitals in the State under the State's system. If, by the end of such 36-month period, the Secretary determines, based on such evidence, that either of the conditions described in subparagraph (A) or (B) of such paragraph continues to apply, the Secretary shall (i) collect any net excess reimbursement to hospitals in the State during such 36-month period (basing such net excess reimbursement on the net difference, if any, in the rate of increase in costs per hospital inpatient admission under the State system compared to the rate of increase in such costs with respect to all hospitals in the United States over the 36-month period, as measured by including the cumulative savings under the State system based on the difference in the rate of increase in costs per hospital inpatient admission under the State system as compared to the rate of increase in such costs with respect to all hospitals in the United States between January 1, 1981, and the date of the Secretary's initial notice), and (ii) provide a reasonable period, not to exceed 2 years, for transition from the State system to the national payment system.".

(j) SWING BEDS CERTIFIED PRIOR TO MAY 1, 1987.—Notwithstanding the requirement of section 1883(b)(1) of such Act that the Secretary may not enter into an agreement under such section with a hospital that is not located in a rural area, any agreement entered into under such section on or before May 1, 1987, between the Secretary of Health and Human Services and a hospital located in an urban area shall remain in effect.

(k) PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITY SERVICES.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current system under which skilled nursing facilities receive payment for extended care services under part A of the medicare program or a proposal to replace such system with a system under which such payments would be made on the basis of prospectively determined rates. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall—

(A) take into consideration the need to provide for appropriate limits on increases in expenditures under the medicare program without jeopardizing access to extended care services for individuals unable to care for themselves;

(B) provide for adjustments to prospectively determined rates to account for changes in a facility's case mix, severity of illness, volume of cases, and the development of new technologies and standards of medical practice;

(C) take into consideration the need to increase the payment otherwise made under such system in the case of services provided to patients whose length of stay or costs of treatment greatly exceed the length of stay or cost of treatment provided for under the applicable prospectively determined payment rate;

(D) take into consideration the need to increase payments under the system to facilities that treat a disproportionate share of low-income patients and facilities located in geographic areas with high wages and wage-related costs; and

(E) take into consideration the appropriateness of classifying patients and payments upon functional disability, cognitive impairment, and other patient characteristics.

(2) REPORTS.—(A) By not later than April 1, 1991, the Secretary (acting through the Administrator of the Health Care Financing Administration) shall submit any research studies to be used in developing the proposal under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(B) By not later than September 1, 1991, the Secretary shall submit the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(C) By not later than March 1, 1992, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(l) DESIGNATION OF PEDIATRIC LIVER TRANSPLANT FACILITIES.—

(1) IN GENERAL.—Section 4009(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking "pediatric heart" and inserting "pediatric heart or liver", and

(ii) by striking "the heart" and inserting "the";

(B) by striking "pediatric heart" each place it appears in paragraphs (1) and (3); and

(C) in the heading, by striking "Heart" and inserting "Heart or Liver".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to transplants performed on or after January 1, 1991.

(m) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) APPLICATION OF PREENTITLEMENT PSYCHIATRIC HOSPITAL SERVICES TO LIMIT ON INPATIENT HOSPITAL SERVICES.—Effective as if included in the enactment of the Medicare Catastrophic Coverage Repeal Act of 1989, section 101(b)(1)(B) of such Act is amended by inserting "(other than the limitation under section 1812(c) of such Act)" after "limitation".

(2) PROVISIONS RELATING TO HOSPITALS.—

(A) Section 1886(d)(5)(D)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(D)(iii)), as amended by section 6003(e)(1)(A)(iv) of Omnibus Budget Reconciliation Act of 1989 (in this subsection referred to as "OBRA-1989"), is amended by striking "The term" and inserting "For purposes of this title, the term".

(B) Section 1820 of such Act (42 U.S.C. 1395i-4), as added by section 6003(g)(1)(A) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(i) in subsection (d)(1), by striking "demonstration";

(ii) in subsection (g)(1)(A)(ii), by striking "rural referral center" and inserting "regional referral center"; and

(iii) in subsection (j), by inserting "and part C" after "this part".

(C) Section 6003(g)(3)(C)(vii)(I) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "each place it appears".

(D) Section 1835(c) of the Social Security Act (42 U.S.C. 1395n(c)) is amended—

(i) in the first sentence, by striking "a hospital" and inserting "a hospital or a rural primary care hospital";

(ii) in the second sentence, by striking "1833(a)(2)" and inserting "1833(a)(2) (or, in the case of a rural primary care hospital, in accordance with section 1833(a)(6))"; and

(iii) by striking the third sentence.

(E) Section 1886(d)(8)(C) of such Act (42 U.S.C. 1395ww(d)(8)(C)), as amended by section 6003(h)(3) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(i) in clause (i), in the matter preceding subclause (I), by striking "area—" and inserting "area, or by treating hospitals located in one urban area as being located in another urban area—";

(ii) in clause (i)(II), by striking "rural county" and inserting "county or area";

(iii) by striking clause (ii); and

(iv) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii).

(F) Section 1886(d)(10) of such Act (42 U.S.C. 1395ww(d)(10)), as added by section 6003(h)(1) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(i) in subparagraph (B)(ii), by inserting "first" after "make",

(ii) in subparagraph (C)(iii)(I), by striking "the deadline referred to in clause (ii)" and inserting "the date on which the hospital submits its application"; and

(iii) in subparagraph (C)(iii)(II)—

(I) in the first sentence, by striking "unsuccessful applicant" and inserting "losing party",

(II) in the second sentence, by striking "the appeal of an applicant" and inserting "such an appeal", and

(III) by inserting "the date on which" after "after" each place it appears.

(3) TECHNICAL CORRECTIONS RELATING TO OTHER PROVIDERS OF SERVICES.—

(A) Section 1814(l)(1)(C)(i) of the Social Security Act (42 U.S.C. 1395f(i)(1)(C)(i)), as amended by section 6005(a)(2) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking "during fiscal year 1990" and inserting "on or after January 1, 1990, and on or before September 30, 1990,".

(B) Section 6005(c) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subsection (a)" and inserting "subsections (a) and (b)".

(C) Section 1818A(d)(1) of the Social Security Act (42 U.S.C. 1395i-2a(d)(1)), as inserted by section 6012(a)(2) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(i) in subparagraph (A), by inserting "for enrollment under this section" after "Premiums", and

(ii) by striking subparagraph (C).

(D) Section 1818(g)(2)(B) of the Social Security Act (42 U.S.C. 1395i-2(g)(2)(B)), as added by section 6013(a) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking "subsection (c)" and inserting "subsection (c)(6)".

(F) Section 1819(f)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)(A)(ii)) is amended by striking "and" at the end.

(G) Section 1866(a)(1)(F) of such Act (42 U.S.C. 1395cc(a)(1)(F)) is amended—

(i) in clause (i), by striking the comma at the end and inserting ",", and

(ii) in clause (ii), by striking "(4)(A)" and inserting "(3)(A)" and by striking the semicolon at the end and inserting a comma.

SEC. 12003. MISCELLANEOUS AND TECHNICAL PROVISIONS RELATING TO PART B.

(a) EXTENSION OF DEMONSTRATIONS.—

(1) PREVENTION DEMONSTRATIONS.—Section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(A) in subsection (a), by striking "4-year" and inserting "5-year";

(B) in subsection (e)(2), by striking "Not later than five years after the date of the enactment of this Act, the Secretary shall submit a final report" and inserting "Not later than April 1, 1993, the Secretary shall submit an interim report";

(C) in subsection (e), by adding at the end the following new paragraph:

"(3) Not later than April 1, 1995, the Secretary shall submit a final report to those Committees on the demonstration program and shall include in the report a comprehensive evaluation of the long-term effects of the program.";

(D) in subsection (f), by striking "$5,900,000" and inserting "$7,500,000"; and

(E) in subsection (f), by inserting before the period at the end the following: "and shall not exceed $3,000,000 for the comprehensive evaluation referred to in subsection (e)(3)".

(2) ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.—Section 9342 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(A) in subsection (c)(1), by striking "3 years" and inserting "5 years", and

(B) in subsection (d)(1), by striking "third year" and inserting "fourth year".

(b) REVISE INFORMATION ON PART B CLAIMS FORM.—Section 1833(q)(1) of the Social Security Act (42 U.S.C. 1395l(q)(1)) is amended by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(c) EFFECTIVE DATE OF REPORTING ON PART B CLAIMS FORMS.—Effective as if included in the enactment of section 6204 of the Omnibus Budget Reconciliation Act of 1989, subsection (c)(2) of such section is amended by inserting ", and the amendment made by subsection (b)," after "of the Social Security Act".

(d) PROHIBITION OF COMPETITIVE BIDDING DEMONSTRATION FOR CATARACT SURGERY.—The Secretary of Health and Human Services may not conduct a demonstration project of competitive bidding for cataract surgery where such project relies primarily on physician marketing to direct patients to low-bidding surgeons and facilities.

(e) CONDITIONS OF PARTICIAPTION FOR DURABLE MEDICAL EQUIPMENT SUPPLIERS.—Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)), as amended by section 12112(a) of the Omnibus Budget Reconciliation Act of 1990, is amended by adding at the end the following new paragraph:

"(17) REQUIRING SUPPLIER PARTICIPATION IN MEDICAID.—If a supplier consistently engages in the systematic practice of refusing to furnish covered items to individuals eligible for medical assistance under a State plan approved under title XIX, the Secretary may exclude the supplier from participation in the programs under this Act, in accordance with the procedures of subsections (c), (f), and (g) of section 1128.".

(f) LIMITS ON EXTRA BILLING FOR DURABLE MEDICAL EQUIPMENT.—Section 1834(a) of such Act (42 U.S.C. 1395m(a)), as amended by subsection (e), is further amended by adding at the end the following new paragraph:

"(18) LIMITING CHARGES FOR NONPARTICIPATING SUPPLIERS.—

"(A) IN GENERAL.—In the case of covered items for which payment may be made under this subsection furnished on or after January 1, 1992, if a nonparticipating supplier furnishes the item to an individual entitled to benefits under this part, the supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to an item furnished—

"(i) in 1992, 120 percent of the amount specified for the item under this subsection, and

"(ii) in a subsequent year, 115 percent of the amount specified for the item under this subsection.

"(C) ENFORCEMENT.—If a supplier knowingly and willfully bills in violation of subparagraph (A), the Secretary may apply sanctions against such supplier in accordance with section 1842(j)(2) in the same manner as such sanctions may apply to a physician.".

(g) AREA ADJUSTMENT FOR DURABLE MEDICAL EQUIPMENT.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than March 1, 1992—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under subparagraph (A), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(h) DISCLOSURE OF OWNERSHIP.—

(1) IN GENERAL.—Title XI of the Social Security Act is amended by inserting after section 1124 the following new section:

"DISCLOSURE REQUIREMENTS FOR OTHER PROVIDERS UNDER PART B OF MEDICARE

"Sec. 1124A. (a) DISCLOSURE REQUIRED TO RECEIVE PAYMENT.—No payment may be made under part B of title XVIII for items or services furnished by any disclosing part B provider unless such provider has provided the Secretary with full and complete information—

"(1) on the identity of each person with an ownership or control interest in the provider or in any subcontractor (as defined by the Secretary in regulations) in which the provider directly or indirectly has a 5 percent or more ownership interest; and

"(2) with respect to any person identified under paragraph (1) or any managing employee of the provider—

"(A) on the identity of any other entities providing items or services for which payment may be made under title XVIII of the Social Security Act with respect to which such person or managing employee is a person with an ownership or control interest at the time such information is supplied or at any time during the 3-year period ending on the date such information is supplied, and

"(B) as to whether any penalties, assessments, or exclusions have been assessed against such person or managing employee under section 1128, 1128A, or 1128B.

"(b) UPDATES TO INFORMATION SUPPLIED.—A disclosing part B provider shall notify the Secretary of any changes or updates to the information supplied under subsection (a) not later than 180 days after such changes or updates take effect.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'disclosing part B provider' means any entity receiving payment on an assignment-related basis for furnishing items or services for which payment may be made under part B of title XVIII, except that such term does not include an entity described in section 1124(a)(2);

"(2) the term 'managing employee' means, with respect to a provider, a person described in section 1126(b); and

"(3) the term 'person with an ownership or control interest' means, with respect to a provider—

"(A) a person described in section 1124(a)(3), or

"(B) a person who has one of the 5 largest direct or indirect ownership or control interests in the provider.".

(2) CRIMINAL PENALTY FOR PROVIDING FALSE INFORMATION.—Section 1128B(c) of such Act (42 U.S.C 1320a-7b(c)) is amended by striking "health care program" and inserting "health care program, or with respect to information required to be provided under section 1124A,".

(3) FAILURE TO PROVIDE INFORMATION AS GROUNDS FOR PERMISSIVE EXCLUSION FROM PROGRAM.—Section 1128(b)(9) of such Act (42 U.S.C. 1320a-7(b)(9)) is amended by striking "1124" and inserting "1124, section 1124A,".

(4) EFFECTIVE DATE.—The amendments made by paragraph (1), (2), and (3) shall apply with respect to items or services furnished on or after—

(A) January 1, 1993, in the case of items or services furnished by a provider who, on or before the date of the enactment of this Act, has furnished items or services for which payment may be made under part B of title XVIII of the Social Security Act; or

(B) January 1, 1992, in the case of items or services furnished by any other provider.

(i) TECHNICAL AMENDMENTS RELATING TO PHSYCIAISN PAYMENTS AND THE RB-RVS.—

(1) PROHIBITION OF COMPARABILITY ADJUSTMENTS.—Section 1848(i) of such Act (42 U.S.C. 1395w-4(i)) is amended by adding at the end the following new paragraph:

"(2) NO COMPARABILITY ADJUSTMENT.—For physicians' services (including radiology and anesthesia services) for which payment under this part is determined under this section—

"(A) a carrier may not make any adjustment in the payment amount under section 1842(b)(3)(B) on the basis that the payment amount is higher than the charge applicable, for a comparable services and under comparable circumstances, to the policyholders and subscribers of the carrier,

"(B) no payment adjustment may be made under section 1842(b)(8), and

"(C) section 1842(b)(9) shall not apply .".

(2) PERIODIC REVIEW AND ADJUSTMENTS.—

(A) RELATIVE VALUES.—Section 1848(c)(2)(B)(i) of such Act is amended by striking "5 years" and inserting "3 years".

(B) GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1) of such Act is amended—

(i) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)", and

(ii) by adding at the end the following new subparagraph:

"(C) PERIODIC REVIEW AND ADJUSTMENTS IN GEOGRAPHIC ADJUSTMENT FACTORS.—The Secretary, not less often than every 3 years, shall review the indices established under subparagraph (A) and the geographic index values applied under this subsection for all fee schedule areas. Based on such review, the Secretary may revise such index and adjust such index values, except that, if more than 1 year has elasped since the last previous adjustment, the adjustment to be applied in the first year of the next adjustment shall be ½ of the adjustment that otherwise would be made.".

(3) MISCELLANEOUS CORRECTIONS.—

(A) CHANGES IN SECTION 1848.—Section 1848 of such Act (42 U.S.C. 1395w-4) is amended—

(i) in subsection (a)(2)(D)(ii), by inserting "the weighted average of (I) such weighted average prevailing charge, and (II) " after "weighted average prevailing charge";

(ii) in subsection (c)(1)(B), by striking the last sentence;

(iii) in subsections (c)(3)(C)(ii)(II) and (c)(3)(C)(iii)(II), by striking "by" the first place it appears in each respective subsection;

(iv) in subsection (c), by redesignating the second paragraph (3), and paragraphs (4) and (5), as paragraphs (4) through (6), respectively;

(v) in subsection (c)(4), as redesignated by subparagraph (C), is amended by striking "subsection" and inserting "section";

(vi) in subsection (d)(1)(A), by striking "subparagraph (C)" and inserting "paragraph (3)";

(vii) in the last sentence of subsection (d)(2)(A), by striking "proportion of HMO enrollees" and inserting "proportion of individuals who are enrolled under this part who are HMO enrollees";

(viii) in subsection (d)(2)(E)(i), by inserting "the" after "as set forth in";

(ix) in subsection (d)(2)(E)(ii)(I), by inserting "payments for" after "under this part for";

(x) in subsection (d)(3)(B)(ii)—

(I) by inserting "more than" after "decrease of", and

(II) in subclause (I), by striking "more than";

(xi) in paragraphs (1)(D)(i) and (2)(A)(i) of subsection (f), by striking "calendar years" and inserting "portions of calendar years";

(xii) in subsection (f)(4)(A), by striking "paragraph (B)" and inserting "subparagraph (B)";

(xiii) in subparagraphs (A) and (B) of subsection (g)(2), by inserting "other than radiologist services subject to section 1834(b)," after "during 1991," and after "during 1992,", respectively; and

(xiv) in subsection (i)(1)(A), by striking "historical payment basis (as defined in subsection (a)(2)(C)(i))" and inserting "adjusted historical payment basis (as defined in subsection (a)(2)(D)(i))".

(B) MISCELLANEOUS.—

(i) Effective as if included in the Omnibus Budget Reconciliation Act of 1989, section 6102(e)(4) of such Act is amended by inserting "determined" after "prevailing charge rate".

(ii) Effective January 1, 1991, section 1842(b)(3)(G) of the Social Security Act, as amended by section 6102(e)(2) of Omnibus Budget Reconciliation Act of 1989, is amended by striking "subsection (j)(1)(C)" and inserting "section 1848(g)(2)".

(iii) Section 1842(b)(12)(A)(ii)(II) of the Social Security Act, as amended by section 6102(e)(4) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking ", as the case may be".

(iv) Section 1833(a)(1)(H) of the Social Security Act, as amended by section 6102(e)(5) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking ", as the case may be".

(v) Section 6102(e)(11) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "of Health and Human Services" after "Secretary".

(C) REPEAL OF REPORTS NO LONGER REQUIRED.—

(i) Subsection (b) of section 4043 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

(ii) Subsection (c) of section 4048 of such Act is repealed.

(iii) Section 4049(b)(1) of such Act is amended by striking ", and shall report" and all that follows up to the period at the end.

(iv) Subsection (d) of section 4050 of such Act is repealed.

(v) Section 4056(a)(1) of such Act, as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking the last sentence.

(vi) Section 4056(b)(2) of such Act is amended by striking the second sentence.

(D) ADJUSTMENT OF EFFECTIVE DATES.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987—

(i) section 4048(b) of such Act is amended by striking "January 1, 1989" and inserting "March 1, 1989", and

(ii) section 4049(b)(2) of such Act is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(j) OTHER MINOR AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—

(A) IN GENERAL.—Subparagraphs (A) and (B) of section 1837(i)(3) of the Social Security Act (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled", and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) of such Act (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect February 1, 1991.

(2) DEVELOPMENT OF CRITERIA REGARDING CONSULTATION WITH A PHYSICIAN AS REQUIREMENT FOR SOCIAL WORKER SERVICES.—

(A) IN GENERAL.—Section 6113(c) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(i) by inserting "and clinical social worker services" after "psychologist services"; and

(ii) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to services furnished on or after January 1, 1991.

(3) CLARIFICATION ON TERMS OF EXTENSION OF MUNICIPAL HEALTH SERVICE PROJECT WAIVERS.—The extension of the municipal health service demonstration projects under section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as provided for in the amendments made by section 6135 of the Omnibus Budget Reconciliation Act of 1989, shall be on the same terms and conditions as were in effect as of December 18, 1989, except for the extension of the period of such projects.

SEC. 12904. PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS.

(a) REGULATION OF INCENTIVE PAYMENTS TO PHYSICIANS.—

(1) IN GENERAL.—Section 1876(i) of the Social Security Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(8)(A) Each contract with an eligible organization under this section shall provide that the organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of individuals enrolled or previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) In this paragraph, the term 'physician incentive plan' means any contractual compensation arrangement between an eligible organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization.".

(2) PENALTIES.—Section 1876(i)(6)(A)(vi) of such Act (42 U.S.C. 1395mm(i)(6)(A)(vi)) is amended by striking "(g)(6)(A);" and inserting "(g)(6)(A) or paragraph (8);".

(3) REPEAL OF PROHIBITION.—Section 1128A(b)(1) of such Act (42 U.S.C. 1320a-7a(b)(1)) is amended—

(A) by striking ", an eligible organization" and all that follows through "section 1876,",

(B) by adding "and" at the end of subparagraph (A),

(C) by striking subparagraph (B),

(D) by redesignating subparagraph (C) as subparagraph (B), and

(E) by striking "or organization".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply with respect to contract years beginning on or after January 1, 1991, and the amendments made by paragraph (3) shall take effect on the date of the enactment of this Act.

(b) REVISIONS IN AAPCC METHODOLOGY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall revise the methodology used in making the determinations required under section 1876(a)(1)(A) of the Social Security Act for years beginning with 1992, and shall (notwithstanding the first sentence of such section) include such revised methodology in the notice provided pursuant to section 1876(a)(1)(F) of such Act for 1991.

(2) DESCRIPTION OF REVISIONS.—In revising the methodology described in paragraph (1), the Secretary shall consider—

(A) the differences in costs associated with medicare beneficiaries with differing health status and demographic characteristics;

(B) the differences in costs associated with medicare beneficiaries who are enrolled with an eligible organization with a contract under section 1876 of the Social Security Act and beneficiaries who are not enrolled with such an organization;

(C) the effects of using alternative geographic classifications on the determination of costs associated with beneficiaries residing in different areas;

(D) the timeliness of the data used to develop the national average per capita rates and the effect of the timeliness of such data on the appropriateness of such rates; and

(E) the appropriateness of the method used to update data used in developing such per capita rates.

(c) APPLICATION OF NATIONAL COVERAGE DECISIONS.—

(1) IN GENERAL.—Section 1876(c)(2) of such Act (42 U.S.C. 1395mm(c)(2)) is amended—

(A) by redesignating clauses (i) and (ii) and subparagraphs (A) and (B) as subclauses (I) and (II) and clauses (i) and (ii), respectively;

(B) by inserting "(A)" after "(2)"; and

(C) by adding at the end the following new subparagraph:

"(B) If there is a national coverage determination made in the period beginning on the date of an announcement under subsection (a)(1)(A) and ending on the date of the next announcement under such subsection that the Secretary projects will result in a significant change in the costs to the organization of providing the benefits that are the subject of such national coverage determination and that was not incorporated in the determination of the per capita rate of payment included in the announcement made at the beginning of such period—

"(i) such determination shall not apply to risk-sharing contracts under this section until the first contract year that begins after the end of such period; and

"(ii) if such coverage determination provides for coverage of additional benefits or under additional circumstances, subsection (a)(6) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances, unless otherwise required by law.".

(2) CONFORMING AMENDMENT.—Section 1876(a)(6) of such Act is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to national coverage determinations that are not incorporated in the determination of the per capita rate of payment for individuals enrolled for 1991 with an eligible organization which has entered into a risk-sharing contract under section 1876 of the Social Security Act.

(d) LIMITS ON PAYMENTS FOR OUT-OF-AREA SERVICES UNDER PART B.—

(1) IN GENERAL.—Section 1876(j) of the Social Security Act (42 U.S.C. 1395mm(j)) is amended—

(A) by striking "physicians'" each place it appears;

(B) by striking "services" each place it appears and inserting "items or services"; and

(C) in paragraph (1)—

(i) by striking "physician" each place it appears and inserting "physician, supplier, or other provider of services", and

(ii) in subparagraph (A), by striking "the participation agreement under section 1842(h)(1) is deemed to provide that the".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to items and services furnished on or after January 1, 1991.

(e) RETROACTIVE ENROLLMENT.—

(1) IN GENERAL.—Section 1876(a)(1)(E) of such Act (42 U.S.C. 1395mm(a)(1)(E)) is amended—

(A) by striking "(E)" and inserting "(E)(i)"; and

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

"(ii)(I) Subject to subclause (II), the Secretary may make retroactive adjustments under clause (i) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with an eligible organization (which has a risk-sharing contract under this section) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this section, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.

"(II) No adjustment may be made under subclause (I) with respect to any individual who does not certify that the organization provided the individual with the explanation described in subsection (c)(3)(E) before the individual enrolled with the organization.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to individuals enrolling with an eligible organization (which has a risk-sharing contract under section 1876 of the Social Security Act) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse) on or after January 1, 1991.

(f) PUBLIC HMOs.—Section 1876(f)(1) of such Act (42 U.S.C. 1395mm(f)(1)) is amended by striking the period and inserting ", or, in the case of an eligible organization that is owned and operated by a governmental entity, an enrolled membership at least one-half of which consists of individual who are not entitled to benefits under this title.".

SEC. 12905. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE.

(a) SIMPLIFICATION OF POLICIES.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by striking "through (4)" and inserting "through (5)",

(B) by striking "and" at the end of subparagraph (D),

(C) by adding "and" at the end of subparagraph (E), and

(D) by inserting after subparagraph (E) the following new subparagraph:

"(F) meets the requirements in paragraph (1) of subsection (p),";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (3),

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

(C) by inserting after paragraph (4) the following new paragraph:

"(5) meets the requirements of paragraph (1) of subsection (o)."; and

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

"(o)(1) The requirements of this paragraph are follows:

"(A) Except as provided in paragraph (3), each medicare supplemental policy shall provide for coverage of 1 of 4 groups of benefits specified by the Secretary under paragraph (2), or, in the case of a State making an election under subsection (p)(1)(A), 1 of 4 groups of benefits specified under the approved State regulatory program.

"(B) An insurer may not sell a medicare supplemental policy to an individual unless the insurer has offered the individual a medicare supplemental policy that only includes the standard group of benefits described in paragraph (2)(A).

"(2) The Secretary shall specify the benefits to be provided in each of 4 different groups of benefits which may be provided under medicare supplemental policies, issued in a State without an approved State regulatory program, as follows:

"(A) One group of benefits (in this subsection referred to as the 'standard group of benefits') shall only include the following:

"(i) Payment of hospital coinsurance amounts imposed under subparagraphs (A) and (B) of section 1813(a).

"(ii) Upon exhaustion of all benefits under part A with respect to inpatient hospital services, coverage of 100 percent of all expenses for inpatient hospital services recognized under part A but not otherwise covered under such part, subject to a lifetime maximum benefit of an additional 365 additional days of inpatient hospital services.

"(iii) Payment of coinsurance amounts (other than the deductible under section 1833(b)) imposed under part B.

"(iv) Payment of the deductibles for blood under sections 1813(a)(2) and 1833(b).

"(B) The other groups of benefits shall include the benefits described in subparagraph (A) and increasingly comprehensive additional benefits.

The Secretary shall specify the uniform language to be used in specifying such benefits.

"(3) A medicare supplemental policy may offer benefits, which are in addition to those specified under paragraph (2) (or, in the case making an election under subsection (p)(1)(A), to those specified by the State) and which (A) are not available under any group specified under such paragraph or (B) are available in a different form under such a group, if the Secretary (in the case of a policy certified under subsection (a)) or the State (in the case of an approved State regulatory program) approves such benefits and if the insurer specifies the additional premium imposed to receive each such additional benefit.

"(p)(1) For purposes of subsection (b)(2)(F), the requirements of this paragraph are as follows:

"(A)(i) Each State may elect to specify the benefits to be provided in each of 4 different groups of benefits which may be provided under medicare supplemental policies issued in the State, if such specifications provide as follows:

"(I) One group of benefits shall be the standard group of benefits (specified in subsection (o)(2)(A)).

"(II) The other groups of benefits shall include the standard group of benefits and increasingly comprehensive additional benefits.

Any State making such an election shall use uniform language to be used in specifying such benefits, except that the uniform language to be used for the standard group of benefits shall be the uniform language specified for that group by the Secretary under subsection (o)(2).

"(ii) Each State which approves additional benefits under subsection (o)(3) shall report to the Secretary annually on the benefits so approved.".

(b) REQUIRING UNIFORM POLICY DESCRIPTION BEFORE PURCHASE.—Section 1882(o)(1) of such Act, as amended by subsection (a) of this section, is amended by adding at the end the following new subparagraph:

"(C) Before the issuance of any medicare supplemental policy (or, in the case of a policy issued before the effective date of regulations to carry out this subparagraph, before the first renewal of such a policy occurring after such date), there must be provided a description of the policy's benefits that uses uniform language and format (including layout and print size), specified by the Secretary, that facilitiates comparison among medicare supplemental policies and comparison with medicare benefits.".

(c) PREVENTION OF DUPLICATE MEDIGAP COVERAGE.—

(1) NOTICE.—Section 1882(d) of such Act is amended—

(A) in paragraph (5), by striking "and (4)(A)" and inserting ", (4)(A), and (5)(A)" and by redesignating such paragraph as paragraph (6), and

(B) by inserting after paragraph (4) the following new paragraph:

"(5)(A) It is unlawful for an entity to issue a medicare supplemental policy to an individual unless the entity obtains from the individual, as part of the application for the issuance of the policy, a written statement signed by the individual stating, to the best of the individual's knowledge, what medicare supplemental policies (if any) the individual has and whether the individual has applied for and been determined to be entitled to any medical assistance under title XIX (whether as a qualified medicare beneficiary or otherwise). Any entity that violates the previous sentence is subject to a civil money penalty not to exceed $5,000 for each policy issued in violation of such sentence.

"(B)(i) Except as provided in clauses (ii) and (iii), if the statement required by subparagraph (A) is not obtained or indicates that the individual has another medicare supplemental policy or indicates that the individual has applied for and been determined to be entitled to any medical assistance under title XIX, the issuance of such a policy shall be considered to be a violation of subparagraph (A).

"(ii) Clause (i) shall not apply in the case of an individual who has another medicare supplemental policy, if the individual indicates in writing, as part of the application for issuance, that the policy being issued is intended to replace such other policy and indicates an intent to terminate the policy being replaced when the new policy becomes effective.

"(iii) Clause (i) also shall not apply if a State medicaid plan under title XIX pays the premiums for the policy.".

(2) SUSPENSION OF POLICIES DURING RECEIPT OF MEDICAID BENEFITS.—Section 1882(o)(1) of such Act, as added by subsection (a) and as amended by subsection (b), is amended by adding at the end the following new subparagraph:

"(D) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended for the period (of up to 12 months) in which the policy or certificate holder indicates that the policy or certificate holder has applied for and been determined to be entitled to medical assistance under title XIX. If such suspension occurs and if the policy or certificate holder loses entitlement to such medical assistance within such 12 month period, coverage under such policy shall be automatically reinstituted (effective as of the date of termination of such entitlement) under terms described in subsection (n)(6)(A)(ii) if the policy or certificate holder provides notice of loss of such entitlement within 90 days after the date of such loss.".

(3) INDENTIFICATION OF DUPLICATE COVERAGE.—Section 1882(d) of such Act is amended—

(A) in paragraph (6), as amended and redesignated by paragraph (1)—

(i) by striking "and (5)(A)" and inserting "(5)(A), and (6)(C)", and

(ii) by further redesignating such paragraph as paragraph (7); and

(B) by inserting after paragraph (5) the following new paragraph:

"(6)(A) Each issuer of a medicare supplemental policy shall file with the Secretary a

list of the individuals who are policyholders of such policies and, in the case of a group policy, who are certificateholders, as of October 1 of such year. Such list shall be filed not later than February 1 of each year (beginning with 1992) and in an electronic form specified by the Secretary. Each such list shall identify individuals by name, address, the individual's social security account number, and the date the policy became effective with respect to the individual.

"(B) Each employer with 100 or more employees offering retiree health benefits shall file with the Secretary (not later than February 1 of each year (beginning with 1992) and in an electronic form specified by the Secretary) a list of the individuals (identified by name, address, and social security account number) who are retirees, receiving such benefits, and are 60 years of age or older.

"(C) Each issuer or employer that fails to file information required under subparagraph (A) or (B) is subject to a civil money penalty of not to exceed $50 for each individual with respect to which the information has not been provided.

"(D) The Secretary shall provide for the matching of the lists submitted under this paragraph once each year.

"(E)(i) The Secretary shall report each year to each State with an approved State regulatory program, for each individual residing in the State who—

"(I) has coverage under two or more medicare supplemental policies (and the names of the issuers of such policies), or

"(II) has coverage under such one or more medicare supplemental policies and has applied for and been determined to be entitled to benefits under a State plan under title XIX,

the name and address of the individual, the name of the issuer of each such policy, and the date of issuance of each such policy.

"(ii) The Secretary shall submit by not later than September 1st of each year (beginning with 1992) a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the extent of duplication of coverage under Medicare supplemental policies and duplication of coverage between retiree health benefits and medicare supplemental policies.

"(F) Clauses (iii) and (vii) of section 205(c)(2)(C) shall apply with respect to social security account numbers included in any filing made pursuant to this paragraph.".

(4) USE OF SOCIAL SECURITY ACCOUNT NUMBERS IN IDENTIFICATION OF DUPLICATE COVERAGE UNDER MEDIGAP POLICIES.—Section 205(c)(2)(C) of such Act is amended—

(A) by redesignating clauses (ii), (iii), and (iv) as clauses (iv), (v), and (vi), respectively;

(B) by redesignating subclauses (I) and (II) of clause (i) as clauses (i) and (ii), respectively;

(C) by inserting after clause (ii) (as redesignated) the following new clause:

"(iii) No officer or employee of the Department of Health and Human Services shall have access to social security account numbers as contained in any list filed pursuant to paragraph (6) of section 1882(d) for any purpose other than the establishment of a system of records necessary to the effective administration of such paragraph. The Secretary shall restrict access to social security account numbers as contained in any such list only to officers and employees of the Department of Health and Human Services whose duties or responsibilities require access for the administration of such paragraph (6). The Secretary shall provide such other safeguards as the Secretary determines to be necessary or appropriate to protect the confidentiality of such social security account numbers."; and

(D) in clause (iv) (as redesignated), by striking "subclause (I) of clause (i)" and "subclause (II) of clause (i)" and inserting "clause (i)" and "clause (ii)", respectively.

(5) CONFIDENTIALITY OF SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

"(vii)(I) Social security account numbers and related records which are obtained or maintained by authorized persons pursuant to any provision of law enacted on or after October 1, 1990, shall be confidential, and no such authorized person shall disclose any such social security account number or related record.

"(II) Paragraphs (1), (2), and (3) of section 7213(a) of the Internal Revenue Code of 1986 shall apply with respect to the unauthorized willful disclosure to any person of social security account numbers and related records obtained or maintained by an authorized person pursuant to a provision of law enacted on or after October 1, 1990, in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) of such Code shall apply with respect to the willful offer of any item of material value in exchange for any such social security account number or related record in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

"(III) For purposes of this clause, the term 'authorized person' means an officer or employee of the United States, an officer or employee of any State, political subdivision of a State, or agency of a State or political subdivision of a State, and any other person (or officer or employee thereof), who has or had access to social security account numbers or related records pursuant to any provision of law enacted on or after October 1, 1990. For purposes of this subclause, the term 'officer or employee' includes a former officer or employee.

"(IV) For purposes of this clause, the term 'related record' means any record, list, or compilation which indicates, directly or indirectly, the identity of any individual with respect to whom a social security account number is maintained.".

(d) LOSS RATIO REQUIREMENTS.—

(1) UNIFORM CALCULATION.—Section 1882(c)(2) of such Act is amended by striking "in accordance with accepted actuarial principles and practices" and inserting "in accordance with a uniform methodology, including uniform reporting standards, specified by the Secretary, after consultation with the National Association of Insurance Commissioners, Federal and State regulatory agencies, insurers, and organizations representing consumers and the aged".

(2) ANNUAL STATE REPORTS ON LOSS-RATIOS.—Section 1882(p)(1) of such Act, as added by subsection (a), is amended by adding at the end the following:

"(B) The State must report annually to the Secretary, on a policy-specific basis, on loss-ratios under medicare supplemental policies and the use of sanctions, such as a required rebate or credit or the disallowance of premium increases, for policies that fail to meet the requirement of subsection (c)(2).".

(3) ANNUAL SECRETARIAL REPORT ON LOSS-RATIOS.—Section 1882(f) of such Act is amended by adding at the end the following new paragraph:

"(3) The Secretary shall submit in February of each year (beginning with 1993) a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of th Senate, on a policy-specific basis, on loss-ratios under medicare supplemental policies and the use of sanctions, such as a required rebate or credit or the disallowance of premium increases, for policies that fail to meet the requirement of subsection (c)(2).".

(e) PRE-EXISTING CONDITION LIMITATIONS AND LIMITATION ON MEDICAL UNDERWRITING.—Section 1882 of such Act is amended—

(1) in subsection (c), in the matter before paragraph (1), by inserting "or the requirement described in subsection (o)(1)(F)" after "paragraph (3)";

(2) in subsection (d)—

(A) in paragraph (7), as amended and redesignated by subsection (c)—

(i) by striking "and (6)(C)" and inserting "(6)(C), and (7)", and

(ii) by further redesignating such paragraph as paragraph (8); and

(B) by inserting after paragraph (6) the following new paragraph:

"(7) Any issuer for a medicare supplemental policy that fails to meet the requirements of subparagraphs (E) and (F) of subsection (o)(1) is subject to a civil money penalty of not to exceed $5,000 for each such failure."; and

(3) by adding at the end of subsection (o)(1), as added by subsection (a) and as amended by subsections (b) and (c)(2), the following new subparagraphs:

"(E) If a medicare supplemental policy replaces another medicare supplemental policy, the issuer of the replacing policy shall waive any time periods applicable to preexisting conditions, waiting period, elimination periods and probationary periods in the new medicare supplemental policy for similar benefits to the extent such time was spent under the original policy.

"(F) The issuer of a medicare supplemental policy may not deny or condition the issuance or effectiveness of a medicare supplemental policy because of health status, claims experience, or medical condition for which an application is submitted during the 6 month period beginning with the first month in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B.".

(f) MINIMUM LOSS RATIOS FOR DAILY HOSPITAL INDEMNITY AND DREAD DISEASE POLICIES.—Section 1882 of such Act, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(q)(1) Each daily hospital indemnity or dread disease policy which is issued or sold to, or renewed for, an individual entitled to benefits under part A of part B of this title must be sold, issued, or renewed in a State with a loss-ratio enforcement program approved by the Secretary under paragraph (2), or, in the case of a State without such a program, must be determined by the Secretary (upon application) to meet the loss-ratio requirements specified in paragraph (3). For purposes of this paragraph, in the case of a noncancellable daily hospital indemnity or dread disease policy issued before an individual attains 65 years of age, the policy shall be deemed to be renewed as of the date the policyholder or certificateholder attains 65 years of age.

"(2) The Secretary shall establish a procedure, similar to the procedure described in subsection (b), whereby a State may apply to the Secretary for approval of a loss-ratio enforcement program which provides for enforcement of the minimum loss-ratio requirements specified in paragraph (3) for all

indemnity and dread disease policies sold or issued in the State to individuals entitled to benefits under part A or part B of this title.

"(3)(A) The minimum loss ratio requirements specified in this paragraph are as follows:

"(i) The policy shall return (in accordance with a uniform methodology, including uniform reporting standards, specified by the Secretary, after consultation with the Association, Federal and State regulatory agencies, insurers, and organizations representing consumers and the aged) to policyholders who are entitled to benefits under part A or part B of this title in the form of aggregate benefits provided under the policy, at least 60 percent (in the case of daily hospital indemnity policies) or 55 percent (in the case of dread disease policies) of the aggregate amount of premiums collected.

"(ii) The issuer of the policy must provide for the reporting to the State annually of information with respect to the actual ratio of aggregate benefits provided to aggregate premiums for such policyholders on forms conforming to standards specified by the Secretary for such purpose.

"(B) The Secretary shall establish uniform methodology for calculating loss-ratios for purposes of this subsection. Such methodology shall provide for the computation of loss-ratios on the basis of individuals covered under such policies who are entitled to benefits under part A or part B of this title.".

(g) HEALTH INSURANCE INFORMATION, COUNSELING, AND ASSISTANCE GRANTS.—

(1) GRANTS PROGRAM.—

(A) IN GENERAL.—The Secretary of Health and and Human Services (in this subsection referred to as the "Secretary") shall make grants to States that submit applications to the Secretary that meet the requirements of this paragraph for the purpose of providing information, counseling, and assistance relating to the procurement of adequate and appropriate health insurance coverage to individuals who are eligible to receive benefits under title XVIII of the Social Security Act (in this paragraph referred to all "eligible individuals"). The Secretary shall prescribe regulations to establish a minimum level of funding for a grant issued under this paragraph.

(B) GRANT APPLICATIONS.—(i) In submitting an application under this paragraph, a State may consolidate and coordinate an application that consists or parts prepared by more than one agency or department of such State.

(ii) As part of an application for a grant under this paragraph, a State shall submit a plan for a State-wide health insurance information, counseling, and assistance program. Such program shall—

(I) establish or improve upon a health insurance information, counseling, and assistance program that provides counseling (including direct counseling) and assistance to eligible individuals in need of health insurance information, including—

(a) information that may assist individuals in obtaining benefits and filing claims under titles XVIII and XIX of the Social Security Act;

(b) policy comparison information for medicare supplemental policies (as described in section 1882(g)(1) of the Social Security Act (42 U.S.C. 139ss(g)(1)) and information that may assist individuals in filing claims under such medicare supplemental policies;

(c) information regarding long-term care insurance; and

(d) information regarding other types of health insurance benefits that the Secretary determined to be appropriate;

(II) in conjunction with the health insurance information, counseling, and assistance program described in subclause (I), establish a system of referral to appropriate Federal or State departments or agencies for assistance with problems related to health insurance coverage (including legal problems), as determined by the Secretary;

(III) provide for sufficient number of staff positions (including volunteer positions) necessary to provide the services of the health insurance information, counseling, and assistance program;

(IV) provide assurance that staff members (including volunteer staff members) of the health insurance information, counseling, and assistance program have no conflict of interest in providing the services described in subclause (I);

(V) provide for the collection and dissemination of timely and accurate health care information to staff members (including volunteer staff members) of the health insurance information, counseling, and assistance program and regular staff meetings and continuing education programs for the purpose of informing the staff of current developments in legal and economic issues relating to the provision of health insurance;

(VI) provide for training programs for staff members (including volunteer staff members);

(VII) provide for the coordination of the exchange of health insurance information between the staff of departments and agencies of the State government and the staff of the health insurance information, counseling, and assistance program;

(VIII) make recommendations concerning consumer issues and complaints related to the provision of health care to agencies and departments of the State government and the Federal Government responsible for providing or regulating health insurance;

(IX) establish an outreach program to provide the health insurance information and counseling described in subclause (I) and the assistance described in subclause (II) to eligible individuals; and

(X) demonstrate, to the satisfaction of the Secretary, an ability to provide the counseling and assistance required under this paragraph.

(C) SPECIAL GRANTS.—(i) A State that is conducting a health insurance information, counseling, and assistance program that is substantially similar to a program described in subparagraph (B)(ii), shall, as a requirement for eligibility for a grant under this paragraph, demonstrate, to the satisfaction of the Secretary, that such State shall maintain the activities of such program at least at the level that such activities were conducted immediately preceding the date of the issuance of any grant during the period of time covered by such grant under this section and that such activities will continue to be maintained at such level.

(ii) If the Secretary determines that the existing health insurance information, counseling, and assistance program is substantially similar to a program described in subparagraph (B)(ii), the Secretary may waive some or all of the requirements described in subparagraph (B)(ii), and issue a grant to the State for the purpose of increasing the number of services offered by the health insurance information, counseling, and assistance program, experimenting with new methods of outreach in conducting such program, or expanding such program to geographic areas of the State not previously served by the program.

(D) CRITERIA FOR ISSUING GRANTS.—In issuing a grant under this paragraph, the Secretary shall consider—

(i) the commitment of the State to carrying out the health insurance information, counseling, and assistance program described in subparagraph (B)(ii), including the level of cooperation demonstrated—

(I) by the office of the chief insurance regulator of the State, or the equivalent State entity;

(II) other officials of the State responsible for overseeing insurance plans issued by nonprofit hospital and medical service associations; and

(III) departments and agencies of such State responsible for administering funds under title XIX of the Social Security Act, and administering funds appropriated under the Older Americans Act;

(ii) the population of eligible individuals in such State as a percentage of the population of such State; and

(iii) in order to ensure the needs of rural areas in such State, the relative costs and special problems associated with addressing the special problems of providing health care information, counseling, and assistance to the rural areas of such State.

(E) ANNUAL STATE REPORT.—A State that receives a grant under subparagraph (C) or (D) shall, not later than 180 days after receiving such grant, and annually thereafter, issue an annual report to the Secretary that includes information concerning—

(i) the number of individuals served by the State-wide health insurance information, counseling and assistance program of such State;

(ii) an estimate of the amount of funds saved by the State, and by eligible individuals in the State, in the implementation of such program; and

(iii) the problems that eligible individuals in such State encounter in procuring adequate and appropriate health care coverage.

(F) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall issue a report to the Committee on Finance of the Senate, the Special Committee on Aging of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, and the Select Committee on Aging of the House of Representatives that—

(i) summarizes the allocation of funds authorized for grants under this paragraph and the expenditure of such funds;

(ii) outlines the problems that eligible individuals encounter in procuring adequate and appropriate health care coverage; and

(iii) makes recommendations that the Secretary determines to be appropriate to address the problems described in clause (ii).

(G) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.—There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Medical Supplementary Insurance Trust Fund, $10,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995, and such sums as are necessary for each succeeding fiscal year, to fund the grant programs under this paragraph.

(2) NATIONAL RESOURCE CENTER.—

(A) IN GENERAL.—The Secretary shall establish a national resource center for the purposes of—

(i) creating a clearinghouse for information relating to health insurance information, including information concerning health insurance information, counseling, and assistance programs in the United States and information concerning public and private health insurance programs;

(ii) distributing the information described in clause (i) to the States; and

(iii) providing to the States technical assistance and training in disseminating such information.

(B) INFORMATION EXCHANGE.—The Secretary may request such information from the head of any Federal department or agency as the Secretary may require for the purposes of carrying out this paragraph. Each such department or agency is authorized, to the extent permitted by law, and subject to the provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), to furnish such information in a form that is accurately compiled and within a reasonable period of time.

(C) AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL RESOURCE CENTER.—There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Medical Supplementary Insurance Trust Fund, $1,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995, and such sums as are necessary for each succeeding fiscal year, to fund the national resource center described in subparagraph (A).

(h) ENFORCEMENT OF STANDARDS.—

(1) REQUIRING CONFORMITY WITH STANDARDS.—Section 1882 of such Act is amended—

(A) in the heading, by striking "VOLUNTARY"; and

(B) in subsection (a)—

(i) by inserting "(1)" after "(a)",

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

"(2) No medicare supplemental policy may be sold or issued unless the policy either—

"(A) is sold or issued in a State with an approved regulatory program, or

"(B) has been certified by the Secretary under paragraph (1).".

(2) CERTIFICATION OF STATE REGULATORY PROGRAMS BY SECRETARY, RATHER THAN SUPPLEMENTAL HEALTH INSURANCE PANEL.—Section 1882 of such Act is further amended—

(A) in subsection (b)(1), by striking "the Supplemental Health Insurance Panel (established under paragraph (2))" and inserting "the Secretary";

(B) in subsection (b)(1), by striking "the Panel" and inserting "the Secretary";

(C) in subsection (b)(1), by adding at the end the following: "If the Secretary finds that a State regulatory program no longer meets the standards and requirements of this paragraph, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State to continue to meet such standards and requirements.";

(D) by striking paragraph (2) of subsection (b) and redesignating paragraph (3) of such subsection as paragraph (2); and

(E) in subsection (g)(2)(B), by striking "the Panel" and inserting "the Secretary".

(3) STATE ENFORCEMENT.—Section 1882(b)(1) of such Act, as amended by subsection (a)(1), is amended—

(A) in subparagraph (D), by inserting "and enforcement" after "application",

(B) by striking "and" at the end of subparagraph (E),

(C) by adding "and" at the end of subparagraph (F), and

(D) by inserting after subparagraph (F) the following new subparagraph:

"(G) reports annuallly to the Secretary on the adoption, implementation, and enforcement of the standards and requirements of this paragraph,".

(4) PROMULGATION OF REGULATIONS AND WAIVER OF REQUIREMENTS.—Section 1882 of such Act, as amended by subsections (a) and (f), is amended by adding at the end the following new subsection:

"(r)(1)(A) The Secretary shall promulgate proposed regulations, by June 1, 1991, to implement all the standards and requirements of this section (including the requirements and standards added by the Omnibus Budget Reconciliation Act of 1990).

"(B) If, by April 1, 1991, the National Association of Insurance Commissioners revises the NAIC Model Regulation previously promulgated for purposes of this section to incorporate all the requirements and standards of this section (as amended by the Omnibus Budget Reconciliation Act of 1990), the proposed regulations under subparagraph (A) shall reflect such revised NAIC Model Regulation, but shall not include any restriction relating to the subject matter of section 12 of such Model Regulation (as in effect on the date of the enactment of this subsection).

"(C) The Secretary shall provide for opportunity for public comment, and consult with the National Association of Insurance Commissioners, Federal and State regulatory agencies, insurers, and organizations representing consumers and the aged, respecting the proposed regulations under this paragraph.

"(D) The Secretary shall promulgate final regulations described in subparagraph (A) not later than October 1, 1991.

"(E) Such regulations shall apply in each State effective for policies issued to policyholders on and after the date specified in paragraph (2).

"(F) Regulations issued under this paragraph shall include uniform standards for the enforcement of requirements under this section, and shall specify the sanctions which shall be imposed for violations of such requirements. Such sanctions may include, in the case of a violation of loss-ratio requirements, required rebates or credits and disapproval of premium increases.

"(2)(A) Subject to subparagraph (B), the date specified in this paragraph for a State is—

"(i) the date the Secretary determines under subsection (b)(1) that the State has a regulatory program that meets the requirements of this section (as reflected in the regulations promulgated under paragraph (1)), or

"(ii) the end of the 1-year period beginning on the date of publication of such final regulations,

whichever is earlier.

"(B) In the case of a State which the Secretary identifies as—

"(i) requiring State legislation (other than legislation appropriating funds) in order to implement the regulations promulgated under paragraph (1), but

"(ii) having a legislature which is not scheduled to meet in the 1-year period described in subparagraph (A)(ii) in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins after such 1-year period. 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.

"(3) The Secretary may waive any of the requirements of this section, insofar as they apply to a policy in a State, if the commissioner or superintendent of insurance of the State applies to the Secretary for such waiver and provides assurances satisfactory to the Secretary that, under such waiver, the State will provide for consumer protection at least as great as the protection that would have been provided had the waiver not been granted. The Secretary shall approve or disapprove each application for waiver under this paragraph within 60 days after the date of its submittal to the Secretary.".

(5) REQUIRING APPROVAL OF POLICIES.—The second sentence of section 1882(d)(4)(B) of such Act is amended by striking all that follows "if" the first place it appears and inserting "the policy has been certified by the Secretary pursuant to subsection (c) or was issued in a State with an approved regulatory program.".

(i) GAO REPORTS AND STUDIES.—

(1) REPORT ON LOSS-RATIOS.—In February of each year (beginning with 1991), the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report specifying, on a policy-specific basis, the loss-ratios of medicare supplemental insurance policies, daily hospital indemnity policies, and dread disease policies.

(2) STUDIES.—

(A) IN GENERAL.—The Comptroller General shall conduct studies on the following:

(i) Actions taken by States in order to comply with the requirements imposed by the amendments made by this section.

(ii) The nature and scope of insurance products sold to medicare beneficiaries with benefits that are similar to, but not the same as, those provided in medicare supplemental policies.

(iii) Duplicate health benefits coverage among medicare beneficiaries with retiree health benefits.

(iv) The extent of medical underwriting in the issuance of medicare supplemental policies and the impact of such underwriting on access to such policies.

(v) The impact of the establishment by States of a minimum loss ratio for medicare supplemental policies that exceeds the minimum loss ratios required under section 1882(c)(2) of the Social Security Act.

(B) REPORT.—Not later than February 1, 1992, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the studies conducted under subparagraph (A).

(j) EXCISE TAX FOR NONCERTIFIED MEDICARE SUPPLEMENTAL POLICIES AND CERTAIN OTHER POLICIES.—

(1) IN GENERAL.—Chapter 34 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Noncertified Policies

"Sec. 4381. Excise tax on noncertified policies.

"SEC. 4381. EXCISE TAX ON NONCERTIFIED POLICIES.

"(a) IN GENERAL.—There is hereby imposed a tax on any noncertified policy equal to 50 percent of any premium paid on such policy.

"(b) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the entity that issues the noncertified policy.

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

"(1) POLICY.—The term 'policy' means—

"(A) a medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act), and

"(B) a daily hospital indemnity policy and a dread disease policy (as defined by the Secretary of Health and Human Services for purposes of section 1882(q) of such Act).

"(2) NONCERTIFIED POLICY.—The term 'noncertified policy' means—

"(A) a policy described in paragraph (1)(A) which—

"(i) is sold in a State which does not have a regulatory program approved by the Secretary of Health and Human Services under section 1882(b) of the Social Security Act, and

"(ii) has not been certified by such Secretary under section 1882(c) of such Act; or

"(B) a policy described in paragraph (1)(B) which (i) is sold in a State which does not have a loss-ratio enforcement program approved by the Secretary under section 1882(q)(2) of the Social Security Act, and (ii) is not determined by the Secretary to meet the loss-ratio requirements of section 1882(q)(3) of such Act.".

(2) CLERICAL AMENDMENT.—Chapter 34 of such Code is amended by striking the chapter heading and inserting the following:

"CHAPTER 34—CERTAIN INSURANCE POLICIES

"Subchapter A. Policies issued by foreign insurers.

"Subchapter B. Noncertified policies.

"Subchapter A—Policies Issued by Foreign Insurers".

(3) IMPLEMENTATION.—The amendments made by this subsection shall apply to the issuance of policies occurring on or after the date that is 6 months after the date of issuance of final regulations described in section 1882(r)(1) of the Social Security Act, except that such amendments (insofar as they require a policy to meet loss ratios described in section 1882(c)(2) or section 1882(q)(1) of the Social Security Act) shall apply, as of such effective date, to policies issued before such date for policy years beginning on or after such date.

(k) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c)(1), (c)(2), (d)(1), (d)(2), (e), (f), (h)(1), (h)(2), (h)(3), and (h)(5) shall be effective in a State on the date specified in section 1882(r)(2) of the Social Security Act, as added by subsection (h)(4) of this section.

(2) REPORTS, ETC.L.—Subsections (g) and (i) and the amendments made by subsections (c)(3), (d)(3), and (h)(4) shall take effect on the date of the enactment of this Act.

SEC. 12906. PREVENTION OF UNNECESSARY PRESCRIBING OF CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Part A of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"IMPLEMENTATION OF CONTROLLED SUBSTANCE ACCOUNTABLE PRESCRIPTION SYSTEMS

"SEC. 1821. (a)(1) Subject to paragraph (2), notwithstanding any other provision of this part or part C, payments under this part for inpatient hospital services and extended care services provided in a State in a month beginning with January 1992, shall be reduced by ½ percent if the State has not implemented a controlled substance accountable prescription system described in subsection (b) applicable to controlled substances dispensed as of the first day of such month.

"(2) In the case of a State which the Secretary determines requires State legislation (other than legislation authorizing and appropriating funds) in order for the State to implement a controlled substance accountable prescription system described in subsection (b), paragraph (1) shall not apply to services furnished before the first day of the first month beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this section. 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.

"(b) The controlled substances accountable prescription system described in this subsection must provide for the following:

"(1)(A) Under the system, except as provided in subparagraph (B) or when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in any of schedules II through V, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, may be dispensed without a written prescription of a practitioner, made on an accountable prescription form provided by an agency (designated by the State, such an agency in this subsection referred to as the 'designated State agency') in accordance with paragraph (2) and rules made by the agency to implement this subsection.

"(B) In emergency situations, as defined by the Secretary by rule after consultation with the Attorney General, a controlled substance may be dispensed upon oral prescription in accordance with section 503(b) of the Federal Food, Drug, and Cosmetic Act.

"(2)(A) A designated State agency shall issue accountable prescription forms under this paragraph only to persons validly registered under section 303(f) of the Controlled Substances Act. Before delivering such a form to a person, the agency shall place on the form the name, address, and registration number of such person.

"(B) It shall be unlawful for any other person to use or furnish such form to any other person to procure distribution of a controlled substance except as authorized by Federal or State law.

"(C) Any person who has been issued accountable prescription forms shall ensure such forms are securely stored to prevent theft or loss, and shall, immediately upon the discovery of the theft or loss of such forms, notify the designated State agency of the accountable number of any such missing forms.

"(3)(A) Every person who dispenses a controlled substance pursuant to an accountable prescription form under this subsection shall maintain a record of such dispensing, including—

"(i) information contained on such form, and

"(ii) its accountable number,

for a period of two years and make it available for inspection and copying by officers and employees to carry out this title, title XIX, part A of title XI, the Controlled Substances Act, or a State controlled substances act.

"(B) Any person who prescribes a controlled substance which is subject to paragraph (1) shall maintain a readily retrievable record of such prescribing, including recipient name, drug and quantity prescribed, date of the prescription, and the accountable prescription number.

"(C) Every person who dispenses a controlled substance pursuant to an accountable prescription form under paragraph (1) shall, at such times (but not less than every two months) and in such form as required by the designated State agency make periodic reports of such distribution of a controlled substance. Such reports shall contain at least the registration number assigned under the Controlled Substances Act to the person or establishment which made the distribution, the accountable prescription number, the drug and quantity dispensed, date of the dispensing, and information sufficient to identify the recipient of the controlled substance. Whenever possible, the recipient identification shall be an identification number unique to the recipient, rather than the recipient's name.

"(D) Access to information in the system which identifies individual patients shall be limited to State and Federal authorities involved in the investigation of violations of this title, title XVIII, part A of title XI, the Controlled Substances Act, or a State controlled substances act. Such information may only be used or disclosed by any recipient for the purpose of enforcing such provisions of law. Any patient identifying information which is not part of an active investigation shall be purged one year from the date it is entered into the system. Any individual who uses or reveals information in the system which identifies a patient's name (except as authorized under this subsection or to a court in a judicial proceeding) shall be subject to a fine of $5,000 for each such use or revelation.

"(4) The State agency with an agreement in effect under section 1864(a) maintains an active program to review information obtained under the system under this subsection and to investigate possible instances of fraud relating to the prescribing or dispensing of controlled substances.

"(c) The Secretary (through the Inspector General in the Department) and the Attorney General, in accordance with their respective authorities, shall maintain an active program to assist and cooperate with designated State agencies in carrying out subsection (b), to ensure the integrity of, to review, to analyze, and to investigate information reported to the States under subsection (b)(3), and to investigate potential violations of law identified through the information obtained under this section.

"(d) The Secretary, through the National Cancer Institute and the National Institute for Mental Health, shall develop a brief information brochure which describes the proper prescribing of controlled substances for cancer pain and mental illness and specifies where additional information may be obtained respecting proper prescribing practices. The Secretary shall provide for the distribution of such brochure with accountable prescription forms provided by the Attorney General under this section.

"(e) In order to promote States' use of electronic data transfer to receive information under this section, the Secretary, through the Administrator of the Health Care Financing Administration, shall issue guidelines respecting the electronic data transfer. Such guidelines shall accommodate electronic data transfer systems used by pharmacies.".

(b) FUNDING FOR OPERATION OF SYSTEM.—Section 1864(b) of such Act (42 U.S.C. 1395aa(b)) is amended by inserting "and for the reasonable costs which are attributable to the establishment and operation of the controlled substance account prescription system under section 1821(b)" after "subsection (a)".

SEC. 12907. OTHER TECHNICAL AND MISCELLANEOUS PROVISIONS RELATING TO PARTS A AND B.

(a) USE OF ADMINISTRATIVE LAW JUDGES.—Title XI of the Social Security Act is amended by inserting after section 1122 the following new section:

"ADMINISTRATIVE LAW JUDGES FOR HEALTH-RELATED CASES

"SEC. 1123. If (and when) the administration of title II is placed in an officer who is not acting under the authority or direction of the Secretary, insofar as this title, title XVIII, or Title XIX provides for a hearing before an admininistrative law judge related to a matter under title XVIII, title XIX, part B of this title or a provision of this part relating to such titles or part, notwithstanding any other provision of law, such a hear

ing shall be held before such a judge who is appointed by the Secretary exclusively for hearings relating to such matters and who is in a position within the Department not within the Health Care Financing Administration.".

(b) HOSPITAL AND PHYSICIAN OBLIGATIONS WITH RESPECT TO EMERGENCY MEDICAL CONDITIONS.—

(1) CIVIL MONETARY PENALTIES.—Section 1867(d)(2)(B) of the Social Security Act (42 U.S.C. 1395dd(d)(2)(B)) is amended by striking "knowingly" and inserting "negligently".

(2) EXCLUSION.—Section 1867(d)(2)(B) of such Act (42 U.S.C. 1395dd(d)(2)(B)) is amended by striking "knowing and willful or negligent" and inserting "is gross and flagrant or is repeated".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions occurring on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(c) EXTENSIONS OF EXPIRING PROVISIONS.—

(1) PROHIBITION ON COST SAVINGS POLICIES BEFORE BEGINNING OF FISCAL YEAR.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may not issue any proposed or final regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in a fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1993, or if later, the last fiscal year for which there is a maximum deficit amount specified under section 3(7) of the Congressional Budget and Impoundment Control Act of 1974) of more than $50,000,000, except as follows:

(A) The Secretary may issue such a proposed regulation, instruction, or other policy with respect to the fiscal year before the May 15 preceding the beginning of the fiscal year.

(B) The Secretary may issue such a final regulation, instruction, or other policy with respect to the fiscal year on or after October 15 of the fiscal year.

(C) The Secretary may, at any time, issue such a proposed or final regulation, instruction, or other policy with respect to the fiscal year if required to implement specific provisions under statute.

(2) PROHIBITION OF PAYMENT CYCLE CHANGES.—Notwithstanding any other provisions of law, the Secretary of Health and Human Services is not authorized to issue, after the date of the enactment of this Act, any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down or speeding up claims processing, or delaying payment of claims, under title XVIII of the Social Security Act.

(3) WAIVER OF LIABILITY FOR HOME HEALTH AGENCIES.—Section 9305(g)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(4) EXTENSION AND EXPANSION OF WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.—

(A) EXTENSION OF CURRENT WAIVERS.—Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(i) in paragraph (1), by striking "September 30, 1992" and inserting "December 31, 1995"; and

(ii) in paragraph (4)—

(I) by striking "final" and inserting "second interim", and

(II) by striking the period at the end and inserting the following: ", and shall submit a final report on the demonstration projects conducted under section 2355 of the Deficit Reduction Act of 1984 not later than March 31, 1996,".

(B) EXPANSION OF DEMONSTRATIONS.—Section 2355 of the Deficit Reduction Act of 1984 is amended—

(i) in subsection (a), by adding at the end of the following: "Not later than 12 months after the date of the enactment of the Omnibus Budget Reconciliation Act of 1990, the Secretary shall approve such applications or protocols for not more than 4 additional projects described in subsection (b).";

(ii) by amending paragraph (1) of subsection (b) to read as follows:

"(1) to demonstrate—

"(A) the concept of a social health maintenance organization with the organizations as described in Project No. 18-P-9 7604/1-04 of the Universtity Health Policy Consortium of Brandeis University, or

"(B) in the case of a project conducted as a result of the amendments made by section 12907(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1990, the effectiveness and feasibility of innovative approaches to refining targeting and financing methodologies and benefit design, including the effectiveness of feasibility of—

"(i) the benefits of expanded post-acute and community care case management through links between chronic care case management services and acute care providers;

"(ii) refining targeting or reimbursement methodologies;

"(iii) the establishment and operation of a rural services delivery system; or

"(iv) the effectiveness of second-generation sites in reducing the costs of the commencement and management of health care service delivery;";

(iii) in subsection (b)—

(I) by inserting "and" at the end of paragraph (3),

(II) by striking the semicolon at the end of paragraph (4) and inserting a period, and

(III) by striking paragraphs (5), (6), and (7).

(iv) in subsection (c)—

(I) by striking "and" at the end of paragraph (1),

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

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

"(3) in the case of a project conducted as a result of the amendments made by section 12907(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1990, any requirements of titles XVIII or XIX of the Social Security Act that, if imposed, would prohibit such project from being conducted."; and

(v) by adding at the end the following new subsection:

"(e) There are authorized to be appropriated $3,500,000 for the costs of technical assistance and evaluation related to projects conducted as a result of the amendments made by section 12907(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1990.".

(d) DEVELOPMENT OF PROSPECTIVE PAYMENT SYSTEM FOR HOME HEALTH SERVICES.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current system under which payment is made for home health services under title XVIII of the Social Security Act or a proposal to replace such system with a system under which such payments would be made on the basis of prospectively determined rates. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall—

(A) take into consideration the need to provide for appropriate limits on increases in expenditures under the medicare program;

(B) provide for adjustments to prospectively determined rates to account for changes in a provider's case mix, severity of illness of patients, volume of cases, and the development of new technologies and standards of medical practice;

(C) take into consideration the need to increase the payment otherwise made under such system in the case of services provided to patients whose length of treatment or costs of treatment greatly exceed the length or cost of treatment provided for under the applicable prospectively determined payment rate;

(D) take into consideration the need to increase payments under the system to providers that treat a disproportionate share of low-income patients and providers located in geographic areas with high wages and wage-related costs; and

(E) analyze the feasibility and appropriateness of establishing the episode of illness as the basic unit for making payments under the system.

(2) REPORTS.—(A) By not later than April 1, 1993, the Secretary of Health and Human Services shall submit the research findings upon which the proposal described in paragraph (1) shall be based to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(B) By not later than September 1, 1993, the Secretary shall submit the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(C) By not later than March 1, 1994, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(e) HOME HEALTH WAGE INDEX.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(iii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended to read as follows:

"(iii) In establishing limits under this subparagraph for portions of a cost reporting period occurring during a fiscal year, the Secretary shall utilize a wage index equal to the area wage index applicable under section 1886(d)(3)(E) during the fiscal year to the nearest hospital located in the geographic area in which the home health agency is located.".

(2) TRANSITION PROVISION.—Notwithstanding section 1861(v)(1)(L)(iii) of the Social Security Act, the Secretary of Health and Human Services shall, in determining the limits of reasonable costs under title XVIII of such Act with respect to services furnished by a home health agency for portions of a cost reporting period occurring during a fiscal year, utilize a wage index equal to—

(A) for portions of cost reporting periods beginning on or after July 1, 1991, and on or before June 30, 1992, a combined area wage index consisting of—

(i) 67 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 33 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic area in which the home health agency is located for discharges occurring during the

fiscal year, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for portions of cost reporting periods beginning on or after July 1, 1992, and on or before June 30, 1992, a combined area wage index consisting of—

(i) 33 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 67 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic area in which the home health agency is located for discharges occurring during the fiscal year, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to home health agency cost reporting periods beginning on or after July 1, 1991.

(f) CLARIFICATION OF DEFINITIONS AND REPORTING REQUIREMENTS RELATING TO PHYSICIAN OWNERSHIP AND REFERRAL.—

(1) CLARIFYING DEFINITIONS.—Section 1877(h) of the Social Security Act (42 U.S.C. 1395nn(h)) is amended—

(A) in paragraph (6)(B), by striking "in the case of another clinical laboratory service,", and

(B) by redesignating paragraph (6) as paragraph (7) and by inserging after paragraph (5) the following new paragraph:

"(6) INVESTOR.—The term 'investor' means, with respect to an entity, a person with a financial relationship specified in subsection (a)(2) with the entity.".

(2) EXEMPTION FOR FINANCIAL RELATIONSHIPS WITH HOSPITAL UNRELATED TO THE PROVISION OF CLINICAL LABORATORY SERVICES.—Section 1877(b) of such Act is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) HOSPITAL FINANCIAL RELATIONSHIP UNRELATED TO THE PROVISION OF CLINICAL LABORATORY SERVICES.—In the case of a financial relationship with a hospital if the financial relationship does not relate to the provision of clinical laboratory services.".

(3) EXCLUSION OF CERTAIN ENTITIES FROM REPORTING REQUIREMENTS.—Section 1877(f) of such Act is amended by adding at the end the following new sentence: "The requirement of this subsection shall not apply to covered items and services provided outside the United States or to entities which the Secretary determines provides services for which payment may be made under this title very infrequently. The Secretary may waive the requirements of this subsection with respect to reporting by entities in a State so long as such reporting occurs in at least 10 States, and the Secretary may waive such requirements with respect to the providers in a State required to report so long as such requirements are not waived with respect to parenteral and enteral suppliers, end stage renal disease facilities, ambulance services, hospitals, entities providing physical therapy services, and entities providing diagnostic imaging services of any type.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as if included in the enactment of section 6204 of the Omnibus Budget Reconciliation Act of 1989.

(g) DATE OF ISSUANCE OF REGULATIONS RELATING TO PHYSICIAN OWNERSHIP OF CLINICAL LABORATORIES.—

(1) IN GENERAL.—

(A) Section 1877(f) of such Act is further amended by striking "1 year after the date of the enactment of this section" and inserting "October 1, 1990".

(B) Section 6204(d) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "October 1, 1990" and inserting "October 1, 1991".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as if included in the enactment of section 6204 of the Omnibus Budget Reconciliation Act of 1989.

(h) CLARIFICATION OF PAYMENT TO HOSPITAL-BASED NURSING SCHOOLS.—

(1) IN GENERAL.—Section 6205(a)(1)(A) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "if," and all that follows and inserting the following: "if—

"(i) before June 15, 1989, and thereafter, the hospital demonstrates that for each year—

"(I) it incurs at least 50 percent of the costs of training nursing students at such school,

"(II) the nursing school and the hospital share some common board members, and

"(III) all instruction is provided at the hospital (or, if in another building, a building on the immediate grounds of the hospital); or

"(ii) the hospital is described in section 8411(b) of the Technical and Miscellaneous Revenue Act of 1988.".

(2) PERIOD OF APPLICABILITY.—Section 6205(a)(2) of such Act is amended by striking "periods" and all that follows and inserting the following: "periods—

"(i) in the case of a hospital described in clause (i) of subparagraph (A), beginning on or after the date of the enactment of this Act and on or before the date on which the Secretary issues regulations pursuant to subsection (b)(2)(A); or

"(ii) in the case of a hospital described in subparagraph (A)(ii), beginning on or after October 1, 1985, and on or before the date on which the Secretary issues regulations pursuant to subsection (b)(2)(A).".

(3) EFFECTIVE DATE.— The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(i) CASE MANAGEMENT DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall resume the 3 case management demonstration projects described in paragraph (2) and approved under section 425 of the Medicare Catastrophic Coverage Act of 1988 (in this subsection referred to as "MCCA").

(2) PROJECT DESCRIPTIONS.—The demonstration projects referred to in paragraph (1) are—

(A) the project proposed to be conducted by Providence Hospital for case management of the elderly at risk for acute hospitalization as described in Project No. 18-P-99379/5-01;

(B) the project proposed to be conducted by the Iowa Foundation for Medical Care to study patients with chronic congestive conditions to reduce repeated hospitalizations of such patients as described in Project No. P-99399/4-01; and

(C) the project proposed to be conducted by Key Care Health Resources, Inc., to examine the effects of case management on 2,500 high cost medicare beneficiaries as described in Project No. 18-P-99396/5.

(3) *Terms and conditions.*—Except as provided in paragraph (4), the demonstration projects resumed purusant to paragraph (1) shall be subject to the same terms and conditions established under section 425 of MCCA. In determining the 2-year duration period of a project resumed pursuant to paragraph (1), the Secretary may not take into account any period of time for which the project was in effect under section 425 of MCCA.

(4) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 425(g) of MCCA, there are authorized to be appropriated for administrative costs in carrying out the demonstration projects resumed pursuant to paragraph (1) $2,000,000 in each of fiscal years 1991 and 1992.

(j) PROHIBITION OF USER FEES FOR SURVEY AND CERTIFICATION.—Section 1864 of the Social Security Act (42 U.S.C. 1395aa) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, the Secretary may not impose, or require a State to impose, any fee on any facility or entity subject to a determination under subsection (a), or any renal dialysis facility subject to the requirements of section 1881(b)(1), for any such determination or any survey relating to determining the compliance of such facility or entity with any requirement of this title.".

(k) ANTI-FRAUD AND ABUSE AMENDMENTS.—

(1) INDUCEMENT TO BENEFICIARIES.—Section 1128A(a)(1) of such Act (42 U.S.C. 1320a-7(a)(1)) is amended by striking "or" at the end of paragraph (2), by adding "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) transfers anything for less than fair market value to (or for the benefit of) a beneficiary in order to influence the individual to receive from a particular provider, practitioner, or supplier a covered item or service for which payment may be made under title XVIII or XIX;".

(2) INDUCEMENT TO EMPLOYERS.—Section 1128A(a)(1) of such Act (42 U.S.C. 1320a-7(a)(1)), as amended by paragraph (1), is amended by striking "or" at the end of paragraph (3), by adding "or" at the end of pargraph (4), and by inserting after paragraph (4) the following new paragraph:

"(5) pays a bonus, reward or other incentive to an employee to induce the employee to encourage individuals to seek or obtain covered items or services for which payment may be made under title XVIII or XIX where the amount of the incentive is in proportion to the activities of the employee in encouraging individuals to seek or obtain covered items or services;".

(3) DELEGATION OF AUTHORITY TO INSPECTOR GENERAL.—Section 1128A(j) of such Act (42 U.S.C. 1320a-7a(j)) is amended—

(A) by striking "(j)" and inserting "(j)(1)"; and

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

"(2) The Secretary may delegate authority granted under this section and under section 1128 to the Inspector General of the Department of Health and Human Services.".

(l) PROVISIONS RELATING TO PEER REVIEW ORGANIZATIONS.—

(1) USE OF CORRECTIVE ACTION PLANS.—

(A) IN GENERAL.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended—

(i) by inserting after the first sentence the following: "Before making such a determination, the organization may provide the practitioner or person with the opportunity to enter into and complete a correction action plan (which may include remedial education) and may consider in making such recommendations the completion or failure to complete such a plan."; and

(ii) in the current second sentence, by inserting "taking into account the practitioner's or person's willingness to enter into a correction action plan and completion (or failure to complete) such a plan" after "such obligations,".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to initial determinations made by organizations on or after the date of the enactment of this Act.

(2) TREATMENT OF OPTOMETRISTS AND PODIATRISTS.

(A) IN GENERAL.—Section 1154 of such Act (42 U.S.C. 1320c-3) is amended—

(i) in subsection (a)(7)(A)(i), by inserting ", optometry, or podiatry" after "dentistry", and

(ii) in subsection (c), by striking "or dentistry" each place it appears and inserting "dentistry, optometry, or podiatry".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

(3) STUDY OF COORDINATION OF PROs AND CARRIERS.—

(A) STUDY.—The Secretary of Health and Human Services shall conduct a study to develop a plan to improve the coordination of physician review activities of peer review activities and carriers. Such study shall consider—

(i) the development of common utilization and claim review criteria;

(ii) targeting of reviews by peer review organizations and carriers; and

(iii) enhanced information exchange between peer review organizations and carriers.

(B) REPORT.—Not later than January 1, 1992, the Secretary shall submit to Congress a report on the study conducted under subparagraph (A) and shall include in the report such recommendations for changes in legislation as may be appropriate.

(4) EXCHANGE OF INFORMATION WITH STATE LICENSING BOARDS.—Section 1160 of such Act (42 U.S.C. 1320c-9) is amended—

(A) in subsection (A)(3), by inserting "or (f)" after "(b)", and

(B) by adding at the end the following new subsection:

"(f)(1) Within 1 year after the date of the enactment of this subsection, the Secretary shall provide for the exchange of information between organizations with contracts under this part and State board or boards responsible for the licensing or disciplining of a provider or practitioner.

"(2) In providing for such exchange, the Secretary shall consider—

"(A) confidentiality, including appropriate restrictions on redisclosure and liability protections;

"(B) appropriate times in the process under this part in which disclosure is appropriate;

"(C) the specific information to be disclosed; and

"(D) information produced by such licensing or disciplining boards that could enhance activities under this part.

"(3) In providing for such exchange, the Secretary shall consult with organization representing State medical boards, peer review organizations, and such other organizations as the Secretary deems appropriate.".

(m) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) The third sentence of subsections (a) and (b)(1) of section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 203(a)(1)(A) of the Medicare Catastrophic Coverage Repeal Act, is amended by striking "(k)(4),".

(2) Section 1877(g)(5) of the Social Security Act, as added by section 6204(a) of OBRA-1989, is amended by adding at the end the following new sentence: "The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(3) Subsection (i) or section 1867 of the Social Security Act, as added by section 6211(f) of the Omnibus Budget Reconciliation Act of 1989, is amended to read as follows:

"(i) WHISTLEBLOWER PROTECTIONS.—A participating hospital may not penalize or take adverse action against a physician or qualified medical person described in subsection (c)(1)(A)(iii) because the physician or person refuses to authorize the transfer of an individual with an emergency medical condition that has not been stabilized or against any hospital employee because the employee reports a violation of a requirement of this section.".

(4) Section 6213(d) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "take effect" and inserting "apply to services furnished on or after".

(5) Section 6217(a) of the Omnibus Budget Reconciliation Act of 1989 is amended in the matter preceding paragraph (1) by inserting after "payments" the following: "out of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate in a year)".

(6) Section 1139 of the Social Security Act, as amended by section 6221 of Omnibus Budget Reconciliation Act of 1989, is amended by striking "interim report" and all that follows through "setting forth" and inserting the following: "interim report no later than March 31, 1990, and a final report no later than March 31, 1991, setting forth".

PART 2—MEDICARE INITIATIVES

SEC. 12911. PPS-EXEMPT HOSPITAL ADJUSTMENT.

(a) IN GENERAL.—Section 1886(b)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(1)(B)) is amended by striking "(ii) in the case of" and all that follows through the semicolon and inserting the following: "(ii) in the case of cost reporting periods beginning on or after October 1, 1991, 50 percent of the amount by which the amount of the operating costs exceeds the target amount (except that the amount determined under this clause may not exceed 20 percent of the target amount);".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to discharges or admissions (as the case may be) occurring on or after October 1, 1991.

SEC. 12912. HOSPITAL PHYSICIAN EDUCATION RECOUPMENT.

(a) IN GENERAL.—The Secretary of Health and Human Services may not, before October 1, 1991, recoup payments from (or otherwise reduce or adjust payments under title XVIII of the Social Security Act to) a hospital because of alleged overpayments to such hospital under such title due to a determination that costs which were reported by the hospital on its medicare cost reports relating to physician education programs were allowable costs and are included in the definition of "operating costs of inpatient hospital services" pursuant to section 1886(a)(4) of such Act, so that no pass-through of such costs was permitted under such section.

(b) CAP ON ANNUAL AMOUNT OF RECOUPMENT.—With respect to overpayments to a hospital described in subsection (a), the Secretary may not recoup more than 25 percent of the amount of such overpayments from the hospital during a fiscal year.

(c) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect October 1, 1990.

SEC. 12913. UNIVERSITY-AFFILIATED NURSING EDUCATION PROGRAMS.

(a) IN GENERAL.—The reasonable costs incurred by a hospital (or by an educational institution related to the hospital by common ownership or control) during a cost reporting period for approved nursing and allied health education programs that are not operated by the hospital shall be allowable as reasonable costs under title XVIII of the Social Security Act and reimbursed under such title on a pass-through basis.

(b) CONDITIONS FOR REIMBURSEMENT.—The reasonable costs incurred by a hospital for an approved nursing and allied health education program during a cost reporting period shall be reimbursable pursuant to subsection (a) only if—

(1) the proportion of the costs of the program incurred by the hospital during the cost reporting period does not exceed the proportion of such costs incurred by the hospital during the cost reporting period beginning on or after October 1, 1989;

(2) the hospital receives a benefit for the support it furnishes to such program through the provision of clinical services by nursing or allied health students participating in such program; and

(3) the costs incurred by the hospital for such program do not exceed the costs that would be incurred by the hospital if it operated the program itself.

(c) PROHIBITION AGAINST RECOUPMENT OF COSTS BY SECRETARY.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not recoup payments from (or otherwise reduce or adjust payments under title XVIII of the Social Security Act to) a hospital because of alleged overpayments to such hospital under such title due to a determination that costs which were reported by the hospital on its medicare cost reports for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1990, relating to approved nursing and allied health education programs were allowable costs and are included in the definition of "operating costs of inpatient hospital services" pursuant to section 1886(a)(4) of such Act, so that no pass-through of such costs was permitted under such section.

(2) REFUND OF AMOUNTS RECOUPED.—If, prior to the date of the enactment of this Act, the Secretary has recouped payments from (or otherwise reduced or adjusted payments under title XVIII of the Social Security Act to) a hospital because of overpayments described in paragraph (1), the Secretary shall refund the amount recouped from the hospital.

(d) SPECIAL AUDIT TO DETERMINE COSTS.—In determining the amount of costs incurred by a hospital for purposes of this section, the Secretary shall conduct a special audit to ensure the accuracy of such costs.

(e) EFFECTIVE DATE.—The provisions of this section shall take effect October 1, 1990.

SEC. 12914. COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) COMMUNITY HEALTH CENTERS.—

(1) COVERAGE.—Section 1861(s)(2)(E) of the Social Security Act (42 U.S.C. 1395x(s)(2)(E)) is amended by inserting "and Federally qualified health center services" after "rural health clinic services".

(2) SERVICES DEFINED.—Section 1861(aa) of such Act is amended—

(A) in the heading, by adding at the end the following: "and Federally Qualified Health Center Services",

(B) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "the previous provisions of this subsection" and by redesignating such paragraph and paragraph (4) as paragraph (5) and (6), respectively, and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) The term 'Federally qualified health center services' means—

"(A) services of the type described in subparagraphs (A) through (C) of paragraph (1), and

"(B) preventive primary health services that a center is required to provide under sections 329, 330, and 340 of the Public Health Service Act.

when furnished to an individual as an outpatient of a Federally qualified health center and, for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to a Federally qualified health center or a physician at the center, respectively.

"(4) The term 'Federally qualified health center' means an entity which—

"(A)(i) is receiving a grant under section 329, 330, or 340 of the Public Health Service Act, or

"(ii)(I) is receiving funding from such a grant under a contract with the recipient of such a grant, and (II) meets the requirements to receive a grant under section 329, 330, or 340 of such Act;

"(B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant; or

"(C) was treated by the Secretary, for purposes of part B, as a comprehensive Federally funded health center as of January 1, 1990.".

(3) PAYMENTS.—

(A) IN GENERAL.—Section 1832(a)(2)(D) of such Act (42 U.S.C. 1395k(a)(2)(D)) is amended by inserting "(i)" after "(D)" and by inserting "and (ii) Federally qualified health center services" after "rural health clinic services".

(B) DEDUCTIBLE DOES NOT APPLY.—The first sentence of section 1833(b) of such Act (42 U.S.C. 13951(b)) is amended—

(i) by striking "and" before "(4)",

(ii) by inserting before the period at the end the following: ", and (5) such deductible shall not apply to Federally qualified health center services".

(C) EXCLUSION FROM PAYMENT REMOVED.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (2), by inserting ", except in the case of Federally qualified health center services" before the semicolon at the end, and

(ii) in paragraph (3), by inserting ", in the case of Federally qualified health center services, as defined in section 1861(aa)(3)," after "1861(aa)(1),", and

(iii) by adding at the end the following new sentence: "Paragraph (7) shall not apply to Federally qualified health center services described in section 1861(aa)(3)(B).".

(4) WAIVER OF ANTI-KICKBACK REQUIREMENT.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

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

"(D) a waiver of any coinsurance under part B of title XVIII by a Federally qualified health care center with respect to an individual who qualifies for subsidized services under a provision of the Public Health Service Act; and".

(5) CONFORMING AMENDMENTS.—Section 1861 of such Act (42 U.S.C. 1395x) is further amended—

(A) in subsections (s)(2)(H)(i) and (s)(2)(K), by striking "subsection (aa)(3)" and "subsection (aa)(4)" each place either appears inserting "subsection (aa)(5)" and subsection (aa)(6)", respectively, and

(B) in subsection (aa)(1)(B), by striking "paragraph (3)" and inserting "paragraph (5)".

(6) PRRB REVIEW OF COST REPORTS FOR FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1878 of the Social Security Act (42 U.S.C. 1395oo) is amended by adding at the end the following new subsection:

"(j) In this section, the term 'provider of services' includes a Federally qualified health center.".

(7) GAO STUDY OF HOSPITAL STAFF PRIVILEGES FOR PHYSICIANS PRACTICING IN COMMUNITY HEALTH CENTERS.—

(A) STUDY.—The Comptroller General shall conduct a study of whether physicians practicing in community and migrant health centers are able to obtain admitting privileges at local hospitals. The study shall review—

(i) how many physicians practicing in such centers are without hospital admitting privileges or have been denied admitting privileges at a local hospital, and

(ii)(I) the criteria hospitals use in deciding whether to grant admitting privileges and (II) whether such criteria act as significant barriers to health center physicians obtaining hospital privileges.

(B) REPORT.—By not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit a report on the study under subparagraph (A) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and shall include in such report such recommendations as the Comptroller General deems appropriate.

(8) EFFECTIVE DATE.—(A) Subject to subparagraphs (B) and (C), the amendments made by this section shall apply to services furnished on or after October 1, 1991.

(B) In the case of a Federally qualified health care center that has elected, as of January 1, 1990, under part B of title XVIII of the Social Security Act, to have the amount of payments for services under such part determined on a reasonable-charge basis, the amendment made by paragraph (3)(A) shall only apply on and after such date (not earlier than October 1, 1991) as the center may elect.

(C) The amendment made by paragraph (6) shall apply to cost reports for periods beginning on or after October 1, 1991.

(b) RURAL HEALTH CLINIC SERVICES.—

(1) EXPEDITED CERTIFICATION.—Section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)) is amended by adding at the end the following "If a State agency has determined under section 1864(a) that a facility is a rural health clinic and the facility has applied to the Secretary for certification as such a clinic, the Secretary shall notify the facility of the Secretary's approval or disapproval of the certification not later than 60 days after the date of the State agency determination or the application (whichever is later).".

(2) TEMPORARY WAIVER OF STAFFING REQUIREMENTS.—Section 1861(aa) of such Act, as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(7)(A) The Secretary shall waive for a 1-year period the requirements of paragraph (2) that a rural health clinic employ a physician assistant, nurse practitioner or certified nurse midwife or that such clinic require such providers to furnish services at least 50 percent of the time that the clinic operates for any facility that requests such waiver if the facility demonstrates that the facility has been unable, despite reasonable efforts, to hire a physician assistant, nurse practitioner, or certified nurse-midwife in the previous 90-day period.

"(B) The Secretary may not grant such a waiver under subparagraph (A) to a facility if the request for the waiver is made less than 6 months after the date of the expiration of any previous such waiver for the facility.

"(C) A waiver which is requested under this paragraph shall be deemed granted unless such request is denied by the Secretary within 60 days after the date such request is received.".

(3) PRODUCTIVITY SCREENS.—In employing any screening guideline in determining the productivity of physicians, physician assistants, nurse practitioners, and certified nurse-midwives in a rural health clinic, the Secretary of Health and Human Services shall provide that the guideline shall take into account the combined services of such staff (and not merely the service within each class of practitioner).

(4) PRRB REVIEW OF COST REPORTS FOR RURAL HEALTH CENTERS.—Section 1878(j) of the Social Security Act (42 U.S.C. 1395oo(j)), as added by subsection (a)(6), is amended by inserting "a rural health clinic and" after "includes".

(5) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1991, except that the amendment made by paragraph (4) shall apply to cost reports for periods beginning on or after October 1, 1991.

SEC. 12915 PAYMENTS FOR CRNAS.

(a) IN GENERAL.—Section 1833(1)(1) of the Social Security Act (42 U.S.C. 1395m(1)(1)) is amended—

(1) by inserting "(A)" after "(1)(1)", and

(2) by adding at the end the following new subparagraphs:

"(B)(i) Subject to subparagraph (C), for such services furnished on or after January 1, 1992, the fee schedule shall provide for a national average conversion factor equal to the national average conversion factor established for the locality under section 1848 (without regard to paragraph (2) of section 1848(a)) for physicians' services that are anesthesia services.

"(ii) The conversion factor established for certified registered nurse anesthetists who are medically directed shall be 70 percent of the conversion factor established for such anethetists who are not medically directed.

"(C)(i) In no case shall the conversion factor established under this paragraph in a locality for nonmedically directed services exceed the conversion factor in the locality for physician anesthesia services.

"(ii) The provisions of this subsection shall not apply to certain services furnished in certain hospitals in rural areas under the provisions of section 9320(k) of the Omnibus Budget Reconciliation Act of 1986.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1992.

(c) BUDGET NEUTRAL IMPLEMENTATION.—The Secretary of Health and Human Services shall reduce the conversion factor established under section 1848(d) for 1992 by such an amount as will result in a reduction in the payments under part B of title XVIII of the Social Security Act in 1992 equivalent to the increase in payments in 1992 under

such part resulting from the amendments made by subsection (a).

SEC. 12916. PARTIAL HOSPITALIZATION IN COMMUNITY MENTAL HEALTH CENTERS.

(a) IN GENERAL.—Section 1861(ff)(3) of the Social Security Act (42 U.S.C. 1395x(ff)(3)) is amended—

(1) by striking "(3)" and inserting "(3)(A)";

(2) by striking "outpatients" and inserting "outpatients or by a community mental health center (as defined in subparagraph (B)),"; and

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

"(B) For purposes of subparagraph (A), the term 'community mental health center' means an entity—

"(i) providing the services described in section 1916(c)(4) of the Public Health Service Act; and

"(ii) meeting applicable licensing or certification requirements for community mental health centers in the State in which it is located.".

(b) CONFORMING AMENDMENTS.—(1) Section 1832 (a)(2) of such Act (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (H);

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

(C) by adding at the end the following new subparagraph:

"(J) partial hospitalization services provided by a community mental health center (as described in section 1861(ff)(2)(B))".

(2) Section 1866(e) of such Act (42 U.S.C. 1395cc(e))) is amended by striking "include a clinic" and all that follows through the period and inserting the following: "include—

"(1) a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1861(p)(4)(A) (or meets the requirements of such section through the operation of section 1861(g)), or if, in the case of a public health agency, such agency meets the requirements of section 1861(p)(4)(B) (or meets the requirements of such section through the operation of section 1861(g)), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or (through the operation of section 1861(g)) with respect to the furnishing of outpatient occupational therapy services; and

"(2) a community mental health center (as defined in section 1861(ff)(3)(B)), but only with respect to the furnishing of partial hospitalization services (as described in section 1861(ff)(1)).".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to partial hospitalization services provided on or after October 1, 1991.

SEC. 12917. RURAL BLOOD LABORATORIES.

(a) IN GENERAL.—Section 1833(h)(3) of the Social Security Act (42 U.S.C. 13951(h)(3)) is amended—

(1) in the second sentence—

(A) by striking "during the period" and all that follows through "(ii)" and inserting "by a laboratory that establishes to the satisfaction of the Secretary that", and

(B) by striking "facility, and (iii)" and inserting "facility."; and

(2) by inserting after the first sentence the following new sentence: "The previous sentence shall permit the payment of a fee to a laboratory described in the next sentence for a second trip on a day with respect to a location if that trip is required to collect a sample for a test which the individual's physician has ordered and for which the results are required on an as-soon-as-possible basis.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to clinical diagnostic laboratory tests furnished on or after October 1, 1991.

SEC. 12918. PSYCHOLOGY SERVICES FOR INPATIENTS.

(a) IN GENERAL.—

(1) SERVICES NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b) of the Social Security Act (42 U.S.C. 1395x(b)) is amended—

(A) in paragraph (3), by striking "(including clinical psychologist (as defined by the Secretary)"; and

(B) in paragraph (4)—

(i) by striking "intern and" and inserting "intern,", and

(ii) by striking "anesthetist;" and inserting "anesthetist, and qualified psychologist services (as defined in subsection (ii));".

(2) SERVICES NOT TO BE BILLED THROUGH PROVIDERS OF SERVICES.—Section 1832(a)(2)(B)(iii) of such Act (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended by striking "anesthetist;" and inserting "anesthetist or qualified psychologist services;".

(3) CONFORMING AMENDMENTS.—(A) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "unless the services" and inserting "unless the services are qualified psychologist services,".

(B) Section 1866(a)(1)(H) of such Act (42 U.S.C. 1395cc(a)(1)(H)) is amended in the matter preceding clause (i) by striking "anesthetist)" and inserting "anesthetist or qualified psychologist services)".

(b) EFFECTIVE DATE.— The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1991.

SEC. 12919. END STAGE RENAL DISEASE RATES.

Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 12201(a)(2) of the Omnibus Budget Reconciliation Act of 1990, is amended by inserting after the first sentence the following: "With respect to services furnished on or after January 1, 1992, such base rate shall be equal to the respective rate in effect as of December 31, 1991, increased by $5.00.".

SEC. 12920. SELF-ADMINISTRATION OF ERYTHROPOIETIN (EPO).

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (M);

(2) by adding "and" at the end of subparagraph (N); and

(3) by adding at the end of the following new subparagraph:

"(O) erythropoietin for home dialysis patients competent to use such drug without medical or other supervision with respect to the administration of such drug, subject to methods and standards established by the Secretary by regulation for the safe and effective use of such drug, and items related to the administration of such drug;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to erythropoietin furnished on or after October 1, 1991.

SEC. 12921. PART A PREMIUM.

(a) IN GENERAL.—Subsection (d) of section 1818 of the Social Security Act (42 U.S.C. 13951-2) is amended to read as follows:

"(d)(1) The monthly premium under this part for months in 1992 shall be $165. In 1993 shall be $150, in 1994 shall be $135, in 1995 shall be $121.

"(2) The monthly premiums under this part for months in a year after 1995 shall be the monthly premium for months in the previous year changed by the same percentage as the percentage change in the inpatient hospital deductible under section 1813(b) effected in the year involved. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to premiums for months beginning with January 1992.

SEC. 12922. RADIOLOGY SERVICES.

(a) EXEMPTION FROM REDUCTION IN CONVERSION FACTOR FOR PORTABLE RADIOLOGY SERVICES.—Section 1834(B)(4)(D) of the Social Security Act, as added by section 12102(a)(1), is amended in the matter preceding clause (i) by striking "services" and inserting "services (other than portable X-ray services)".

(b) CONTINUATION OF SPECIAL RULE FOR NUCLEAR MEDICINE PHYSICIANS.—Section 6105(b) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking all that follows "Social Security Act" the second place it appears and inserting the following: "beginning April 1, 1990, and ending December 31, 1991, there shall be substituted for the fee schedule otherwise applicable a fee schedule based ½ on the fee schedule computed under such section (without regard to this subsection) and ½ on 101 percent of the 1988 prevailing charge for such services.".

(c) EXTENSION OF SPLIT BILLING RULE FOR INTERVENTIONAL RADIOLOGISTS.—Section 6105(c) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "or 1991" after "1990" each place it appears.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 12923. EXPANSION OF HOSPICE BENEFIT.

(a) IN GENERAL.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(4), by striking "90 days each" and all that follows through "with respect to" and inserting the following: "90 days each, a subsequent period of 30 days, and a subsequent extension period with respect to"; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "90 days each" and all that follows through "lifetime" and inserting the following: "90 days each, a subsequent period of 30 days, and a subsequent extension period during the individual's lifetime", and

(B) in paragraph (2)(B), by striking "a 90- or 30-day period," and inserting "a 90- or 30-day period or a subsequent extension period,".

(b) CONFORMING AMENDMENT.—Section 1814(a)(7)(A) of such Act (42 U.S.C. 1395f(a)(7)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the semicolon at the end and inserting ", and"; and

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

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care and services furnished on or after October 1, 1991.

SEC. 12924. COVERAGE OF SCREENING MAMMOGRAPHY.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)—

(A) in paragraph (11), by striking all that follows "(bb))" and inserting a semicolon,

(B) in paragraph (12)(C), by striking all that follows "area)" and inserting "; and", and

(C) by inserting after paragraph (12) the following new paragraph:

"(13) screening mammography (as defined in subsection (jj));"; and

(2) by inserting after subsection (ii) the following new subsection:

"SCREENING MAMMOGRAPHY

"(jj) The term 'screening mammography' means a radiologic procedure provided to a woman for the purpose of early detection of breast cancer and includes a physican's interpretation of the results of the procedure.".

(b) PAYMENT AND COVERAGE.—Section 1834 of such Act 942 U.S.C. 1395m) is amended—

(1) in subsection (b)(1)(B), by inserting "and subject to subsection (c)(1)(A)" after "conversion factors", and

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

"(c) PAYMENTS AND STANDARDS FOR SCREENING MAMMOGRAPHY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, with respect to expenses incurred for screening mammography (as defined in section 1861(jj))—

"(A) payment may be made only for screening mammography conducted consistent with the frequency permitted under paragraph (2);

"(B) payment may be made only if the screening mammography meets the quality standards established under paragraph (3); and

"(C) the amount of the payment under this part shall, subject to the deductible established under section 1833(b), be equal to 80 percent of the least of—

"(i) the actual charge for the screening,

"(ii) the fee schedule established under subsection (b) or the fee schedule established under section 1848, whichever is applicable, with respect to both the professional and technical components of the screening mammography, or

"(iii) the limit established under paragraph (4) for the screening mammography.

"(2) FREQUENCY COVERED.—

"(A) IN GENERAL.—Subject to revision by the Secretary under subparagraph (B)—

"(i) No payment may be made under this part for screening mammography performed on a woman under 35 years of age.

"(ii) Payment may be made under this part for only 1 screening mammography performed on a woman over 34 years of age, but under 40 years of age.

"(iii) In the case of a woman over 39 years of age, but under 50 years of age, who—

"(I) is at high risk of developing breast cancer (as determined pursuant to factors identified by the Secretary), payment may not be made under this part for the 11 months of a previous screening mammography, or

"(II) is not at a high risk of developing breast cancer, payment may not be made under this part for a screening mammography performed within the 23 months after a previous screening mammography.

"(iv) In the case of a woman over 49 years of age, but under 65 years of age, payment may not be made under this part for screening mammography performed within 11 months after a previous screening mammography.

"(v) In the case of a woman over 64 years of age, payment may not be made for screening mammography performed within 23 months after a previous screening mammography.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing screening mammography, based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which screening mammography may be paid for under this subsection, but no such revision shall apply to screening mammography performed before January 1, 1992.

"(3) QUALITY STANDARDS.—The Secretary shall establish standards to assure the safety and accuracy of screening mammography performed under this part. Such standards shall include the requirements that—

"(A) the equipment used to perform the mammography must be specifically designed for mammography and must meet radiologic standards established by the Secretary for mammography;

"(B) the mammography must be performed by an individual who—

"(i) is licensed by a State to perform radiological procedures, or

"(ii) is certified as qualified to perform radiological procedures by such an appropriate organization as the Secretary specifies in regulations;

"(C) the results of the mammography must be interpreted by a physician—

"(i) who is certified as qualified to interpret radiological procedures by such an appropriate board as the Secretary specifies in regulations, or

"(ii) who is certified as qualified to interpret screening mammography procedures by such a program as the Secretary recognizes in regulation as assuring the qualifications of the individual with respect to such interpretation; and

"(D) with respect to the first screening mammography performed on a woman for which payment is made under this part, there are satisfactory assurances that the results of the mammography will be placed in permanent medical records maintained with respect to the woman.

"(4) LIMIT.—

"(A) $55, INDEXED.—Except as provided by the Secretary under subparagraph (B), the limit established under this paragraph—

"(i) for screening mammography performed in 1991, is $55, and

"(ii) for screening mammography performed in a subsequent year is the limit established under this paragraph for the preceding year increased by the increase in the conversion factor established under section 1848(d) effective for services furnished in that subsequent year.

"(B) REDUCTION OF LIMIT.—The Secretary shall review from time to time the appropriateness of the amount of the limit established under this paragraph. The Secretary may, with respect to screening mammography performed in a year after 1992, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that screening mammography of an appropriate quality is readily and conveniently available during the year.

"(C) APPLICATION OF LIMIT IN HOSPITAL OUTPATIENT SETTING.—The Secretary shall provide for an appropriate allocation of the limit established under this paragraph between professional and technical components in the case of hospital outpatient screening mammography (and comparable situations) where there is a claim for professional services separate from the claim for the radiologic procedure.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of mammography screening performed on or after October 1, 1991, for which payment is made under this subsection, if a nonparticipating physician or supplier provides the screening to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B), or if less, as defined in subsection (b)(5)(B) or as defined in section 1848(g)(2)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to screening mammography performed—

"(i) in 1991, 125 percent of the limit established under paragraph (4),

"(ii) in 1992, 120 percent of the limit established under paragraph (4), or

"(iii) after 1992, 115 percent of the limit established under paragraph (4).

"(c) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2)."

(c) CERTIFICATION OF SCREENING MAMMOGRAPHY QUALITY STANDARDS.—

(1) Section 1863 of such Act (42 U.S.C. 1395z) is amended by inserting "or whether screening mammography meets the standards established under section 1834(c)(3)," after "1832(a)(2)(F)(i),".

(2) The first sentence of section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by inserting before the period the following: ", or whether screening mammography meets the standards established under section 1834(c)(3)".

(3) Section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by inserting "1834(c)(3)," after "1832(a)(2)(F)(i),".

(d) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(2)(E) of such Act (42 U.S.C. 13951(a)(2)(E)) is amended by inserting ", but excluding screening mammography" after "imaging services".

(2) Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "subparagraph (B), (C), (D), or (E)" and inserting "a succeeding subparagraph",

(ii) in subparagraph (D), by striking "and" at the end,

(iii) in subparagraph (E), by striking the semicolon at the end and inserting ", and", and

(iv) by adding at the end the following new subparagraph:

"(F) in the case of screening mammography, which is performed more frequently that is covered under section 1834(c)(2) or which does not meet the standards established under section 1834(c)(3), and, in the case of screening pap smear, which is performed more frequently than is provided under section 1861(nn);"; and

(B) in paragraph (7), by inserting "or under paragraph (1)(F)" after "(1)(B)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to screening mammography performed on or after October 1, 1991.

PART 3—MEDICARE PROGRAM COST REDUCTIONS

SEC. 12931. REDUCTION IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) IN GENERAL.—Section 1842(b)(16)(A) of the Social Security Act (42 U.S.C. 1395u(b)), as added by section 12101(b) of the Omnibus Budget Reconciliation Act of 1990, is amended by striking "5 percent" and inserting "7.5 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1991.

SEC. 12932. INTERPRETATION OF EKGS.

Section 12108(b) of the Omnibus Budget Reconciliation Act of 1990 is amended by striking "January 1, 1992" and inserting "January 1, 1991".

SEC. 12933. COVERAGE FOR SEATLIFTS.

(a) IN GENERAL.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by adding at the end the following: "With respect to a seat-lift chair, such term includes only the seat-lift mechanism and does not include the chair.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 1991.

SEC. 12934. REDUCTION IN PAYMENTS FOR TENS DEVICES.

(a) IN GENERAL.—Section 1834(a)(1)(D) of the Social Security Act (42 U.S.C. 1395m(a)(1)(D)), as amended by section 12112(a)(1) of the Omnibus Budget Reconciliation Act of 1990, is amended by striking "15 percent" and inserting "30 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to covered items furnished on or after January 1, 1991.

PARLIAMENTARY INQUIRIES

Mr. FRENZEL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRENZEL. Mr. Chairman, are we going to read the amendment?

The CHAIRMAN. It is designated under the rule, it will not be read. It is already designated.

Mr. FRENZEL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRENZEL. Mr. Chairman, can the Chair explain to me how we designated something that did not exist until 10 minutes ago?

The CHAIRMAN. Under the rule, it is stated that the said amendment will be considered as read.

Mr. FRENZEL. No matter how voluminous?

Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRENZEL. Was there a unanimous-consent request made that the Panetta amendment not be subject to points of order?

The CHAIRMAN. The rule also provides for that.

Mr. FRENZEL. Was there any unanimous-consent request made with respect to the Panetta amendment today, Mr. Chairman?

The CHAIRMAN. No. It was not necessary. The rule provides for that waiver.

Mr. FRENZEL. Thank you, Mr. Chairman.

Mr. GINGRICH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GINGRICH. Mr. Chairman, I just want to ask of the Chair: Are copies of the current version of the Panetta amendment available in sufficient number that all the Members get a chance to look at it? Do we have copies that we can look at of the current version?

Mr. PANETTA. Mr. Chairman, we have provided copies to the Republican side, and we have a copy at the desk. Those are the copies that are available.

Mr. FRENZEL. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRENZEL. Mr. Chairman, can the Chair tell us how many pages are in the amendment? We are not sure what we have here.

The CHAIRMAN. If the gentleman will bear with the Chair, the Chair will get the gentleman that answer.

Mr. FRENZEL. I appreciate that, Mr. Chairman.

The CHAIRMAN. The pages do not seem to be numbered.

Mr. GINGRICH. Mr. Chairman, would the Chair have someone count them?

The CHAIRMAN. The Chair is trying to cooperate with the inquiry, if the gentleman will just be patient.

Mr. PANETTA. Mr. Chairman, is this in the context of a point of order, or is this just time taken off the amendment?

The CHAIRMAN. It is a parliamentary inquiry. The Chair will respond, and time is not coming out of debated time.

In answer to the question, it is roughly 200 pages.

Mr. FRENZEL. I thank the Chair.

Mr. GINGRICH. Would the Chair please check and let us know exactly how many pages?

Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GINGRICH. Would the Chair explain? I just read the resolution briefly. Would the Chairman explain where in the rule points of order are waived on this amendment? It says here, "Points of order are waived on the amendments which have been printed." It says, "All points of order are hereby waived against amendments printed in the report."

The CHAIRMAN. The Chair will respond. It is on page 3, lines 11 and 12, "All points of order against the amendments en bloc are hereby waived."

The gentleman from California [Mr. PANETTA] will be recognized for 15 minutes, and a Member in opposition will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the amendment that we present here is an effort to strip matters that are not, we believe, related to deficit reduction or involve questionable savings that are part of the reconciliation bill. We tried to establish a precedent within the reconciliation bill of trying to eliminate those matters reported from the various committees that do not relate specifically to reconciliation.

This is obviously an effort. It is not as perfect as any of us would have hoped.

Obviously there are areas here that require discretion as to what, in fact, relates to deficit reduction and what does not, and in addition to that, there are areas, particularly in the Medicaid and Medicare areas, that relate to the summit agreement that involve efforts to try to reduce the hit that impacts on both Medicare and Medicaid. Those are areas under the jurisdiction of both the Committee on Energy and Commerce as well as the Committee on Ways and Means.

Let me cite some of the proposals that are stripped here in the amendment. With regard to the Committee on Agriculture, we eliminate the GSE provisions that they included there. This is true also for the Committee on Banking and Urban Affairs as well as for the Committee on Ways and Means.

The reason we stripped the GSE provisions is because, under the budget process reform section, we provide in conjunction with the administration a proposal that comprehensively deals with GSE's overall, and for that reason we felt that it was not appropriate for each of the committees to develop their own particular approach to dealing with GSE's.

In Education and Labor we stripped the child care bill which was included by the Committee on Education and Labor, but it is a bill that we feel should be dealt with outside of reconciliation.

We also stripped, under the Education and Labor provision, OSHA criminal penalties, again because we were concerned about questionable savings related to that provision.

In addition, in the Committee on the Interior, we stripped Bryce Canyon as well as the reauthorization of the BLM area.

Merchant Marine and Fisheries, we stripped proposals related to the Sabine River in Texas, and legislation involving World War II merchant mariners, as well as an authorization for the Department of Commerce regarding real property in Hampton Roads, VA, as well as efforts to require water quality standards for coastal recreation waters. All of those are included for stripping in this legislation.

In the Public Works and Transportation area, we stripped a number of provisions that we felt should not be

included, because the gas tax is not included in the final version of the bill, and, again, on Ways and Means we stripped provisions related to GSE's.

Let me mention with regard to 2 areas, Energy and Commerce and Ways and Means, what we have included in this amendment is what the summit had included with regard to areas in both Medicaid and Medicare that would assist low-income individuals with regard to the cuts that were made. These are proposals that are contained in the Finance Committee version of the bill, and both committees felt they had to include these provisions for conference purposes, when they go to conference.

Those are the primary elements included in this amendment.

I would urge the House to adopt it because the savings, incidentally, that would result from this are about $3 billion as a result of stripping these 24 areas.

They do include additions of about $2 billion as a result of the Medicare provisions under Ways and Means, so the net savings in this proposal is about $1 billion.

The CHAIRMAN. The Chair wishes to give a correct answer to the inquiry: 260 pages.

Mr. FRENZEL. I thank the Chair very much.

Mr. Chairman, I rise in opposition to the amendment.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, this has been a very long, agonizing process for all of us, and it is very hard for us not to lose control of our emotions and our tempers as we move along.

But I must say the presentation of the Panetta amendment is the lousiest, lowest thing that this House has produced that has had anything to do with the budget process.

We were told in the Committee on Rules that the gentleman from California [Mr. PANETTA] would be promoting a resolution that was going to strip extraneous matters out of this reconciliation bill. I presented to the gentleman from California a list of 63 Energy and Commerce extraneous provisions, 18 Ways and Means extraneous provisions, 7 others, and he himself had a list of 24 extraneous provisions.

The bill he has given us today has removed only one of the items that I asked him to remove.

□ 2010

It has removed a couple of dozen of the items that he intended to remove from the beginning, and that was all right. However, what is the all-around fleecing, and I must say, it is hard for me to go on without losing control of my temper, but in that 260 pages, he has $1.9 billion in new spending that has no business being in the reconciliation bill and is not the intention of this amendment. I think it is an absolute flaunting of the budget process and of this whole procedure we have been going through for a year, the fact he did it, and your leadership let him do it.

Mr. Chairman, I reserve the balance of my time.

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

I regret that the gentleman feels the way he does with regard to the elements in this amendment, because generally I would take it that the gentleman and those on the other side of the aisle feel that way about the summit agreement overall. However, the summit agreement itself provided for $4 billion to try to deal with issues related to Medicare and Medicaid. That is in the summit agreement.

I refer Members to Mr. Darman's copy on, I believe, page 11 of the agreement provided for that; $2 billion has been included in Medicaid, $2 billion has been included in Medicare. That is the summit agreement. Those are the provisions that are included as part of this amendment. They abide by what we agree to.

Mr. Chairman, I yield 3 minutes to the gentleman from California, [Mr. HAWKINS], chairman of the Committee on Education and Labor.

(Mr. HAWKINS asked and was given permission to revise and extend his remarks.)

Mr. HAWKINS. Mr. Chairman, I find it very difficult to express my opposition to the motion. I know that the gentleman has worked hard on crafting this package.

I cannot, in good conscience, however, vote for anything that is going to strike at the very heart of our future, the children of America. I am surprised at the attempt to define what is deficit reduction. According to the same logic, we would not have defense in this package either, because that does not contribute anything to deficit reduction. Yet, we know good and well that we want strong defense.

Now, as to the so-called alleged reason for doing it, it is said that child care is going to be considered outside of reconciliation. Do not believe it. The other body has put it in this package in reconciliation, and so we have a situation in which the House is going to confer with the other body, and there is no Member in this body that is going to confer with their counterparts on the Senate side.

Now, the Senate has already crafted a child care bill. In effect, that bill eliminates Head Start expansion, it eliminates all the titles that pertain to education, titles I and II of the House-passed bill. This body has passed a child care bill twice. Once last year, again this year. What we are doing now is stripping what we have done in the field of child care from this package. Not to be considered in reconciliation, because we will not confer on it.

The Committee on Education and Labor has worked for 3 long years on trying to craft a bill and they have approved it. They have instructed Members twice on what to do in connection with it. Now, in one motion, they are asked to strike it entirely from the subject matter.

We have hurt the children of America too much already. We have deprived them of nutrition. We are depriving them of a decent education. We have cut back on the programs, WIC and the other programs, that pertain to the welfare children, and now we say we will strip them, child care, from this package. It includes the latchkey kids that leave school every day, have no home to go to because their parents are trying to work. It will place more children into poverty. It will deprive the parents who are working, for the sake of their children, of the opportunity of having a safe place to leave their children.

I think it is unmerciful, and I ask Members to consider. It is a tough vote. I am sorry that Members have been put in this catch-22 situation. Vote against the motion.

Mr. FRENZEL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio, [Mr. GRADISON], a member of the Committee on Ways and Means.

Mr. GRADISON. Mr. Chairman, we have learned a lot about the gentleman from Minnesota [Mr. FRENZEL] in recent days, but one of the things we have seen in the last few minutes which may surprise Members a bit is that he is a master of understatement. Believe me, what he has said about the package which we saw for the first time as a possible addition to this bill about half an hour ago was an understatement.

Happily, based upon my reading of the vote which we took a few minutes ago, this whole thing is not going anywhere anyway, and I think we can rest secure in that fact. I think that is reasonable to address the question to the gentleman from California, the chairman of the Committee on the Budget. He has told Members that the object of this exercise through the Panetta amendment is to strike extraneous material and conform to the summit agreement. There is noting in the summit agreement about these 74 pages of additional material.

Yes, there was money set aside for additional spending, but what the Committee on Ways and Means did in carrying out its responsibility was to decide not to spend that money, not to spend this money, this compulsion to spend money as if it will burn holes in the bottom of our pockets, which is how we got into this trouble that we are in right now.

Let me talk about this package. Those members on the Committee on Ways and Means saw it for the first time yesterday. It was brought up at a markup this afternoon. It has never

been marked up by the Subcommittee on Health and Safety. That is OK. It was going to be taken up directly by the Committee on Ways and Means. The chairman of the Committee on Ways and Means at 3 o'clock this afternoon assured the members of our committee that this matter would be subject to a full committee markup beginning at 9 o'clock tomorrow. That schedule stands. His only request was that we make our amendments in writing and have them in his hand this afternoon.

That is exactly what we did. Who can Members trust around here? Who can Members trust when they are told that the procedure is to work through the committee, and then we are told all of a sudden—and I learned this as I came over for this last vote—that something which our committee is supposed to mark up, and much of it is very good legislation, is going to be taken away from Members entirely?

This is not a trivial matter, and it is certainly not technical. The net increase in spending involved in this is $1.8 billion, a very interesting thing to bring in right at the time when we have had so much talk all day about cutting spending, cutting spending. This increase in spending, there is no necessity for bringing it up at this time. The committee can work its will tomorrow.

Mr. Chairman, I know the outcome of what I am about to do, but I want to make a point by doing this.

Mr. Chairman, I ask unanimous consent to strike from the Panetta amendment the Medicare provisions.

Mr. STARK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. PANETTA. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Chairman, I was not privy to the deliberations that came out with the budget summit, but the Committee on Ways and Means is charged with apportioning $2 billion to help ease the burden on lower income and those less able to care for themselves.

The provisions in the Panetta amendment, most of which have been discussed at great length by the Subcommittee on Health under the Committee on Ways and Means are indeed good legislation.

As to whether this procedure is any different than the Gramm-Latta procedure of some years ago is a matter for each person to decide for themselves. However, there are many good features that are no-cost provisions. Patient self-determination; living will procedures; technical and miscellaneous amendments to all parts of Medicare; assistance to HMO's; Med-Gap standards, which is in the Senate bill, and the Committee on Energy and Commerce bill, our bills; controlled substances; accountable collection, which is endorsed by both the Health and Human Services and the Drug Enforcement Administration.

There is a mammography benefit which was very popular which is in here at no additional annual or monthly premium.

There are exempt hospitals that are getting assistance.

There is a provision to provide postponement of severe impacting on certain training hospitals that train both nurses and doctors.

There are rural blood labs, mental health hospitals, help for psychologists, SRD rates are increased somewhat.

There is a hospice extension.

There is radiology service.

And we saved more. The net spending is $1.849 billion. It is less than was authorized in the summit.

I would urge my colleagues, this is a fair carrying out of the responsibilities of the Medicare Program, and the Ways and Means Committee's responsibility. I urge adoption of the Panetta amendment.

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

(Mr. BARTLETT asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT. Mr. Chairman, I want to note that the Panetta amendment purports to remove some of the extraneous matters that are attached to this bill. Maybe it does, maybe it does not. We have not seen it. We do not know what is in it, but some of the provisions in labor law is not enough. The Panetta amendment at most, at best removes not all of the egregious labor law changes, not most of them, or not even the worst of the amendments.

In fact, we know that the Panetta amendment does not remove the OSHA minimum fines for nonserious violations.

It does not remove the tenfold increase in child labor law violations, and does not remove the National Labor Relations Act radical revolutionary restructuring of the entirety of 60 years of labor law.

The last time that we saw the reconciliation that is on the floor on labor law tonight, was 12 years ago in labor law reform in 1977 and 1978, and it was unceremoniously rejected by the House and the Senate in the Carter administration, and the next time we see it, it appears in reeconciliation.

I would suggest that the Panetta amendment should be removing that extraneous labor law change. It is a straight power grab and and it should not be in here.

This language that is in the reconciliation bill tonight was included the last time in the 1977 Labor Law Reform bill, resulting in a 19-day filibuster in the Senate, six cloture votes that failed before it was finally withdrawn. Since that time, these provisions that are in reconciliation tonight that the Panetta amendment does not remove, these provisions have had no hearings, no markups, no bills introduced, no allegations that such provisions are either desirable or necessary.

At 10:15 yesterday morning the language reappeared and was put in the budget reconciliation and has not been removed by the extraneous amendments of tonight.

The House Education and Labor Committee has included in its portion of budget reconciliation, sweeping change in the National Labor Relations Act. I urge that these provisions be deleted.

The National Labor Relations Act provisions of reconciliation pose as mere remedy increases. In fact, this language was included in the 1977 labor law reform bill which resulted in a 19-day filibuster in the Senate and 6 cloture votes before it was finally withdrawn. Since that time, these provisions have not once been aired—there have been no hearings, no mark-ups, no bills introduced, no allegations that such provisions are necessary. At 10:15 a.m. yesterday morning the language reappeared and was put into budget reconciliation.

The legislation turns 60 years of labor law on its head:

First, monetary penalties. The National Labor Relations act has always been treated as a remedial statute, not a punitive law. This legislation for the first time would allow the NLRA general counsel to assess penalties of at least $1,000 to $10,000 per employee in the case of an unfair labor practice, with no dollar cap on the total fine. For 60 years the NLRA has imposed back pay, reinstatement, obligation to bargain, or double back pay—compensatory, make-whole relief, never punitive damages.

Second, personal and individual liability. For the first time, individuals rathr than employers could be held personally liable for the fines. For example, each member of a negotiating team could be penalized up the maximum amount per employee. Clearly, these provisions will inhibit employers from engaging in collective bargaining at all.

Third, guilty until proven innocent. The NLRA general counsel has always acted as the prosecutor in unfair labor cases; the NLRB acts as the adjudicator of the complaint. Under this new budget reconciliation language, the general counsel would charge that an unfair labor practice has been committed and then assess the penalties, before the case is adjudicated.

Fourth, inequitable standards for assessing penalties. The standards for assessing penalties are highly inequitable. They depend, in part, on the ability to pay and "other matters as justice may require." In other words, the deeper the pocket, the bigger the penalty. While such a policy would further Congress' ability to generate new revenues, it hardly seems just. Instead of looking at the seriousness of the violation, the Government would look instead at the size of the corporate treasury.

CONCLUSION

Organized labor would undoubtedly be delighted with enactment of these new revenue raising amendments to the National Labor Relations Act. Management employees would be so intimidated by the penalties the committee proposes that organizing employees and ne-

gotiating costly labor contracts would be even easier than that proposed in the Carter administration's labor law reform package that tore Congress apart in 1978.

Mr. PANETTA. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, with regard to the provisions that were just mentioned by the gentleman from Texas, every one of those involves savings. The child labor provision provides for $45 million in savings over 5 years.

The NLRA civil penalties involve $96 million in savings over 5 years, and do the other provisions.

The gentleman may not like the provisions, but the committee reported that to the Budget Committee and responded to the reconciliation instruction to produce savings, and that is what we included in the reconciliation bill.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. GEPHARDT], the majority leader.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I urge Members to vote for this amendment for a variety of reasons.

First, the attempt here is take out extraneous provisions, and you have heard Members who are chagrined about the taking out of extraneous provisions.

We took out the GSE proposal from the Agriculture Committee and the Banking Committee.

We took the child care bill out of Education and Labor, the OSHA criminal penalties just talked about.

We took out facilities loans for low income high minority schools, the GSE provisions of the Ways and Means Committee, a fee from the Energy and Commerce Committee, provisions on Bryce Canyon in the Interior and Insular Affairs Committee, the reauthorization of the BLM program, removed some provisions that had to do with the National Wildlife Refuge, Sabine River and on and on, a number of provisions in the Public Works and Transportation Committee, a whole list of provisions that are there and again the provisions in Ways and Means on GSE's.

Now, the argument has been made here tonight that there have been provisions put in the bill on Medicaid and Medicare. There is a good reason for that. There are a series of cuts in Medicare and Medicaid in the budget bill, in the reconciliation bill.

In the summit, I negotiated an arrangement with Mr. Darman and the other negotiators that we would have $4 billion in this bill that would come from the reimposition of the Social Security tax on State and local employees, which brings in $11 billion, and it was said that $4 billion of that bill, the income from the bill, would be used to cushion the blow of the Medicaid and the Medicare cuts.

Because of those agreements, we asked the Energy and Commerce Committee to put in their provisions to cushion the blow of the Medicaid and the Medicare cuts, and we asked the Ways and Means Committee to do the same, and in this bill are those provisons from the Ways and Means Committee.

So this is an attempt so that we are in conference in reconciliation. We have similar provisions in Medicare and Medicaid, as the Senate does.

The other areas that we feel are extraneous, we tried to put in this bill. That is the reason we are asking that those measures be stricken.

So I would urge the Members to vote for the bill. I think it is proper. I think it will put us in the position that we need to be in the conference, and I think it is in concert with what we have tried to do in this budget summit.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, I hope this moment will not pass without this body taking notice of what has happened with this bill.

The provisions of the Social Security bill that were to be considered in the Ways and Means Committee this afternoon, were removed from that committee. They were included in this provision, and the effect of that trick has been to deny the Ways and Means Committee and this body an opportunity to eliminate or ameliorate the earnings penalty. Senior citizens age 65 to 69 have a cruel, mean-hearted tax that is imposed on them. Our ability to ameliorate that, to take that away, to lessen that tax, has been denied because of the foolish trick, I believe, of including the Social Security provisions in this bill. That is not fair. It is not right.

Occasionally things get so cute I think they deny common justice, and that is what has happened in this case.

Mr. FRENZEL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I have to respond to the statements of the distinguished beloved and erudite majority leader, who said that this amendment was particularly appropriate. One statement be made was that these items came from the committee. They did not come from the committee. Many of them have never seen hearings in the committee. The committee did not see them. They sprang full blown from the head of Zeuss, as far as we know, and if Zeuss is Chairman ROSTENKOWSKI or subcommittee Chairman STARK or Chairman PANETTA, I do not know, and I do not care. They did not come from the committee.

Now, secondly, the distinguished majority leader said that he negotiated these things in the summit. He did not negotiate any of these things. There are dozens of no-cost items in here that are policy changes that have nothing to do with the summit. He did not negotiate those, and they were never raised in the summit.

Now, this amendment was supposed to be in the Rules Committee to remove extraneous provisions. It has become a vehicle for more wanton spending and for game playing.

□ 2030

Now, I am used to being rolled around here. I have been in the minority for 20 years. I know that I cannot affect policy and that my use around here is as a steppingstone for ambitious majority Members. And I do not mind getting clobbered on policy questions. And I do not even mind getting licked by your crummy rules that you arrange so that we cannot make amendments and so that our debate is limited.

But let me tell you, I really object to this kind of duplicitous conduct where you say you are putting an amendment in to take things out and then you bring an additional $1.9 billion worth of spending, dozens of items the committee never held hearings on, much less had a chance to discuss informally.

Mr. Chairman, there is no way this amendment should pass the House, and if it does, it will wreak ultimate disgrace on the process and those who serve it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair will note that the gentleman from California [Mr. PANETTA] does not have any time remaining. What does the gentleman from Minnesota [Mr. FRENZEL] wish to do with his time?

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, we have been interested to hear over the last few minutes about the $1.9 billion in spending that has gotten into the bill, it was there because it was assumed in the summit.

Well, there are several other things that were assumed in the summit too that did not make it in. There just happened to be $3 billion in entitlement cuts that were never reconciled to any committee and nothing was ever done about them.

In other words, when it comes to spending $1.9 billion, the majority says that is assumed in the summit and so therefore we are going to bring it to the floor in this kind of a hurry-up manner. But when it comes to cuts, when it comes to spending cuts, those did not even get assigned to any committee despite the fact that they were agreed upon by the summit.

Now, that is precisely what we have been saying here all day: When it comes to spending, the Democrats will waive any rule in the world, will lie, cheat, and steal in order to try to get the measure out here. When it comes to spending cuts, they will not take

any action that necessitates making those cuts real. That is exactly what is happening here again.

Vote down this crazy amendment.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas [Mr. PICKLE].

(Mr. PICKLE asked and was given permission to revise and extend his remarks.)

Mr. PICKLE. Mr. Chairman, I am concerned about the government-sponsored enterprises, the GSE's such as: Fannie Mae, Freddie Mac, and Sally Mae.

The committee chairman has said his amendment would strip out language regarding GSE's in this bill. I am told there is one section left.

I want to remind the House that the activities of these government-sponsored enterprises result in both implicit and explicit liabilities for the Federal Government.

We have over $900 billion in potential liabilities as a result of the activities of GSE's. All that is left in this bill, as I see it, is a vague requirement that the committees of jurisdiction will look at this situation. You will wait till hell freezes over next year before the Committee on Agriculture, or the Committee on Education and Labor, or the Committee on Banking, Finance and Urban Affairs report anything worthwhile on GSE's.

I would hope, Mr. Chairman, that there is some arrangement whereby meaningful GSE reform will be kept in the bill. I would like for the committee to give me the assurance.

Can the gentlemen from California or Minnesota, members of the committee, give me that assurance?

PREFERENTIAL MOTION OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The Clerk will report the motion.

The Clerk read as follows:

Mr. FRENZEL moves that the committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. The gentleman from Minnesota [Mr. FRENZEL] is recognized for 5 minutes.

Mr. FRENZEL. Mr. Chariman, I yield myself 1 minute.

Mr. Chairman, I have discoursed enough on this amendment, and I think it has disrupted whatever comity at least I thought might have existed prior to the introduction of this amendment.

I supported the introduction of this amendment as it was described in the Committee on Rules, and it has been used, I think, to subvert and defile the process by adding items that were never intended by any committee of this House, never voted on by any committee of this House, added extra spending to a bill in which we are telling the taxpayers of this country that we are reducing spending, and here we are bombing some more on them.

This amendment has made an abomination out of that process.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would notify the gentleman from Minnesota that he must use his 5 minutes.

Mr. FRENZEL. Mr. Chairman, I thank the chairman for his warning.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of the gentleman's position.

Mr. Chairman, this Nation is governed by a Constitution. That Constitution provides for three branches of Government. Our branch of Government is made up of representatives of the people and the way that whole representative process works is that we represent the needs of our people in the committee debate and through our discussion we come to an understanding of what the impact of changes in the law will be on our people, not on our process here, not on the political ambitions of individuals, but on people's lives.

Now, the provisions in these amendments have been discussed in my subcommittee, in part, in small part, but they have not been discussed for the most part.

We cannot tell even whether our urban hospitals are going to be helped or hurt by some of the things that are being done, and we cannot tell in these provisions what their impact will be specifically on our communities and the people we represent, and that is wrong, Mr. Chairman.

Mr. Chairman, I urge support for the gentleman's motion.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Texas.

Mr. ARCHER. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the gentleman from Minnesota's motion.

Mr. Chairman, it is very sad to me that here we are, having gone through months of deliberation as to how to reach a budget agreement and here at the final moment we are presented with a multipage document of which there has been no prior explanation. This is the type of thing that has gotten us into so much trouble in years gone by where voluminous documents hit the floor the last minute before we are to adjourn or before we are to do something extremely important for this country.

I think it is time for us to count to a legislative 10 and to support the gentleman's motion to rise so that we will have an opportunity to look at this and to come back in a more thoughtful way.

But certainly, adding more spending to a bill that is already too loaded with spending is not the direction to go.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. I thank the gentleman for yielding.

Mr. Chairman, like my colleague from Minnesota, I am very disturbed about what it is we are undertaking to do. It represents the worst of that which is making my constituents and the people of America very, very concerned about how this Congress operates.

I am here representing my constituents and entitled to certain things whether or not I be in the minority or the majority. If I am conscientious, if I work hard, if I want to know that which is before me and to frame my votes on their behalf intelligently, how dare you bring things that I, no one, no matter how conscientious, even knows what is included in them or what they are all about?

You do it in a context where this Government will close down at midnight Friday. We played the "break-in-the-crisis" game again, and that is a game we can ill afford to play.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I would ask unanimous consent that the additional Medicare provision from the Committee on Ways and Means be stricken from the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. GRADISON. Mr. Chairman, reserving the right to object, which matter? I want to make sure we do not get any more games played on us. Is it the entire package? Let us get down to pages and titles.

Mr. PANETTA. What I would do is move to strike everything after page 2 that includes from sections 9001 on to the end of the amendment.

Mr. GRADISON. Further reserving the right to object, does this include section 12901?

Mr. PANETTA. That is correct.

Mr. GRADISON. 12902?

Mr. PANETTA. That is correct.

Mr. GRADISON. 12903, 12904, 12905, 12906, 12907, 12911, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, as well as section 12931, 32, 33, and 34?

□ 2040

Mr. PANETTA. Mr. Chairman, the gentleman is correct. Those are the provisions from the Committee on Ways and Means.

Mr. GRADISON. Mr. Chairman, further reserving the right to object, this is precisely the unanimous-consent request that I made a few moments ago which was objected to by the gentleman from California [Mr. STARK].

Mr. Chairman, I withdraw my reservation of objection.

Mr. FRENZEL. Mr. Chairman, reserving the right to object, can the gentleman from California [Mr. PANETTA] tell us what will be left?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, what would be left then is the base amendments which would strike the 24 items from the various committees that I indicated before and that the majority leader also indicated would be stripped from the bill.

Mr. FRENZEL. OK; so that strikes subtitle H and all that follows thereafter.

Mr. PANETTA. The gentleman from Minnesota [Mr. FRENZEL] is correct.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. Further reserving the right to object, Mr. Chairman, I yield to the gentleman from Mississippi [Mr. WHITTEN], the distinguished chairman of the Committee on Appropriations.

Mr. WHITTEN. Mr. Chairman, in view of the history that we have heard just now, what are the 24 that are left? The Members do not know, and the gentleman has not given us any information.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. For the Members I have explained all of the items that we have stripped from the bills. That includes the GSE, the Education and Labor area, and the Public Works area, and the Merchant Marine and Fisheries area. All of those are the areas that would then be stripped from the bill. This would be a basic amendment that would go to the extraneous issues in the bill.

Mr. FRENZEL. Mr. Chairman, further reserving the right to object, I yield to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I was going to reserve on my own because, is what the gentleman is asking for is to include the stricken provisions having to do with the GSE's?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, the only thing I am asking that we would strip are the provisions that were included in the amendment of the Committee on Ways and Means related to Medicare. Everything else would remain.

Mr. FRENZEL. Mr. Chairman, I appreciate the gesture and intend to vote for the amendment.

Mr. Chairman, I withdraw my reservation of objection.

Mr. GONZALEZ. Mr. Chairman, I reserve the right to object.

Does the gentleman from California [Mr. PANETTA] means the GSE provision will remain in the bill?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from California.

Mr. PANETTA. No, Mr. Chairman, they will be stricken as the amendment provided for. The GSE provisions from the Committee on Ways and Means, from banking, and currency and from agriculture will be stricken under the amendment. The other provisions will be stricken as we presented and as we included in the amendment. The only thing I am asking to be stripped here is the provisions that came in on Medicare. That is all.

The CHAIRMAN. Is there objection to the request of the gentleman from California [Mr. PANETTA]?

Mr. PICKLE. Mr. Chairman, I reserve the right to object.

Mr. Chairman, I want the assurance from the gentleman because I am trying my best to understand. He says this one section, subtitle B, is still left in the measure. He has struck out the GSE with respect to the committees of jurisdiction. Essentially what this title does is simply say that the committee of jurisdiction should act by next September. We have no assurance that he can make them act. They are not going to act unless somehow between now and the time we finish this bill they have the chance to——

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, we cannot have three or four authorizing committees coming up with separate GSE language that treats GSEs differently. What we need to rely on is the GSE provisions that are contained in the budget reforms budget process, agreed to by the summit, that are contained in the base bill. That is why we have stripped out the other GSE bill.

Mr. PICKLE. Then, Mr. Chairman, if it is kept in the base bill, we still have a chance to get the proper wording in the conference on this——

Mr. PANETTA. The gentleman from Texas [Mr. PICKLE] is correct.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BATEMAN. Mr. Chairman, reserving the right to object, as I understand what has been done by agreement, certain provisions, which were extraneous and added to the bill, have been eliminated. There was also a very important function that the gentleman's motion, as I understood it, or amendment, was supposed to perform, and that was to take out of the bill extraneous things which were in it, in the agreement and all of the sections that have been eliminated. Have any of those provisions been taken out of the bill that were originally in it? Like the labor law changes that were mentioned?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, the same thing we were going to strip pursuant to the amendment remain in the amendment. In other words, we are going to strip all of the provisions that I indicated we would strip with the exception of the addition of the Medicare provision. That is all I am asking that we take out of the amendment.

Mr. BATEMAN. Mr. Chairman, I ask the gentleman, "Are you taking out of the bill the provision dealing with labor law and the making of policy in that area which is not a part of reconciliation?"

Mr. PANETTA. No.

Mr. BATEMAN. They remain then in the bill?

Mr. PANETTA. The gentleman from Virginia [Mr. BATEMAN] is correct because they provide savings, I might say to the gentleman.

Mr. BATEMAN. Mr. Chairman, I will not object, but I cannot let the opportunity escape to say that this is a shoddy way for our business to be transacted.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I have a unanimous-consent request pending before the House.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. GRADISON. Mr. Chairman, reserving the right to object, I am not clear with regard to a comment made by the distinguished chairman of the Budget Committee, the gentleman from California [Mr. PANETTA]

Am I correct that all of subtitle H is to be stricken? There are a number of other Ways and Means items beyond the numbers which I read already.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, the gentleman from Ohio [Mr. GRADISON] is correct. It is just the items that I referred to in the unanimous-consent request.

Mr. GRADISON. Beginning with section 12701?

Mr. PANETTA. Nothing is added to the Ways and Means title.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. HAWKINS. Mr. Chairman, reserving the right to object, would the gentleman from California [Mr. PANETTA] answer a question?

Mr. Chairman, would the gentleman be clear as to what he is stripping from his motion and not from the bill? Let us confine it to child care. What is the situation again with respect to

child care? Is the gentleman stripping the bill——

Mr. PANETTA. Mr. Chairman, will the gentleman yield,

Mr. HAWKINS. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, with regard to every other element, incuding the stripping of the child care bill, that would remain in the amendment to do that.

Mr. HAWKINS. In the gentleman's amendment?

Mr. PANETTA. The gentleman from California [Mr. HAWKINS] is correct.

Mr. HAWKINS. So that in effect the effect of the amendment then would be to eliminate the child care bill that was submitted to the Committee on Rules. Is that the situation?

Mr. PANETTA. Mr. Chairman, if the gentleman will continue to yield, the leadership has made a commitment that there will be a child care bill. There is pending a child care conference. The only concern was having this added to reconciliation. That was the concern, and that is why we are stripping it.

Mr. HAWKINS. Mr. Chairman, that is not my concern. My concern is that what the gentleman from California [Mr. PANETTA] is doing is stripping the Child Care Program completely from the package because he says that it is going to be handled in a separate bill. The other body has it in the reconciliation package. That is going to decide what happens to it. Now the gentleman is stripping the bill from the package, and so in effect he is eliminating the House bill which was passed in the House.

Mr. Chairman, does the gentleman from California [Mr. PANETTA] deny that that is not the situation?

Mr. PANETTA. Mr. Chairman, again we have passed on the House side the child care bill, both the bill of the gentleman from California [Mr. HAWKINS], as well as the bill of the Committee on Ways and Means. My understanding is that that is in conference, that the gentleman is conferencing those issues, and to add it now as an additional element to reconciliation we feel does not only involve no savings in terms of reconciliation, but complicates the reconciliation process.

Mr. OBEY. Mr. Chairman, I demand regular order. The questions going on have nothing to do with the request made by the gentleman from California [Mr. PANETTA].

The CHAIRMAN. Is there an objection to the modification as proposed by the gentleman from California [Mr. PANETTA]?

Mr. HAWKINS. Mr. Chairman, I object.

Mr. Chairman, will the gentleman give us an answer? Is he saying that the issue is going to be handled?

The CHAIRMAN. There has been an objection.

Mr. HAWKINS. May I ask again, please?

Mr. PANETTA. Mr. Chairman, I renew my unanimous-consent request.

The CHAIRMAN. Is there an objection to the modification?

□ 2050

The CHAIRMAN. Is there objection to the modification?

Mr. HAWKINS. Mr. Chairman, I reserve the right to object, until I get an answer.

The gentleman from California [Mr. PANETTA] is saying it is stripped from reconciliation. the gentleman says it is in conference. It was in conference. Both houses agreed on it in conference. Yet it was not allowed on the House side in the conference report.

If we are in conference and could vote on the conference report, that would settle it. But we are not in that position. That is why we added that in the matter which we submitted to the Committee on Rules. The Committee on Rules kept it in. The motion of the gentleman from California [Mr. PANETTA] would strike it out.

If you strike it out, you have stricken it then from consideration, from House consideration completely on the issue.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from California.

Mr. SHAW. Mr. Chairman, could we have regular order? The objection has nothing to do with the unanimous-consent request.

Mr. PANETTA. Mr. Chairman, let me reply to the gentleman from California [Mr. HAWKINS], the distinguished chairman of the Committee on Education and Labor.

The gentleman is concerned that somehow his rights would be lost, if in fact, on the other side child care was to be included in the reconciliation bill.

My understanding is that there is a conference going on, and that the full rights of the gentleman from California [Mr. HAWKINS] in that conference would be protected, so that he could defend the version passed by the House, and also that the Committee on Ways and Means would also be able to defend the version passed by the Committee on Ways and Means.

Mr. Chairman, we have got conflicting issues that are in conference now. We do not feel that reconciliation is the palace to fight the battle on child care.

Mr. HAWKINS. Mr. Chairman, reclaiming my time, it is not in conference. Members should understand it is not in conference. The only thing pertaining to child care is in reconciliation on the other side. We have nothing on this side with which to go to conference.

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, the point I would make is that the unanimous consent request of the gentleman from California [Mr. PANETTA] deals only with the subject of Medicare in the Committee on Ways and Means. It does not in any way affect the concern of the gentleman from California [Mr. HAWKINS] with respect to child care. That issue is involved with the underlying amendments.

So if we allow the gentleman from California [Mr. PANETTA] his unanimous-consent request, then the question that the gentleman from California [Mr. HAWKINS] has is relevant.

Mr. HAWKINS. Reclaiming my time, it is relevant with respect to the way are going to vote.

Mr. SLATTERY. If the gentleman will yield further, it is not relevant on the unanimous-consent request. It will be relevant with respect to the underlying amendment.

Mr. HAWKINS. Reclaiming my time, the gentleman is denying the child care issue from being in the package. If I withdraw my reservation, what assurance do I have that child care will indeed be considered as has been said?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, my understanding from the leadership is that the full rights of the gentleman from California [Mr. HAWKINS] with regard to the provision that he has sponsored on child care will be protected by the leadership.

Mr. HAWKINS. Reclaiming my time, even to the extent that the House will be in a position to name conferees in reconciliation on this issue?

Mr. PANETTA. If the gentleman will yield further, my understanding is that the full rights of the gentleman from California [Mr. HAWKINS] with regard to the child care provision, if the Senate includes a similar provision, would be protected in conference.

Mr. HAWKINS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there further objection to the modification?

Ms. OAKAR. Mr. Chairman, reserving the right to object, I do not want to object, but I would like to ask the gentleman from California [Mr. PANETTA], on the provisions of the Committee on Ways and Means, which is one of the reasons that some Members felt strongly about supporting this bill, are you striking the Medicare no-cost provisions, which list everything from nurse-anesthesia fees to Medigap standards, and is the House going to cut for the second time the mammography coverage, which in the first year costs zero, and would save money and lives?

Mr. PANETTA. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I would be delighted to yield to the gentleman from Califor-

nia. I am going to object if the gentleman is.

Mr. PANETTA. Mr. Chairman, we are not striking anything in the base bill that was added by the Committee on Ways and Means relative to Medicare. We are only striking the addition that would be provided pursuant to this amendment.

Ms. OAKAR. Mr. Chairman, reclaiming my time, I want to call on the leadership to give me a commitment that when you fellows, all fellows, go into conference, because you did this before in the wee hours 2 years ago, so do not go "Oh," a lot of people are dead because we did not have coverage which saves money and lives in terms of screening.

I want to know whether this is going to be in as part of the negotiation. Is it not time we get a little progressive and try to do something that is productive and will save money? I want to know whether the Medicare initiatives, which are excellent, and I want to commend the Committee on Ways and Means, it does not even cost a lot.

Mr. Chairman, I am not trying to give Members an undue hard time, but I will not stand for this happening again. I am just telling Members that is the way I feel about it.

Mr. GEPHARDT. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I would say to the gentlewoman from Ohio [Ms. OAKAR] that we obviously would like to keep these in the bill. That is why we asked for $4 billion in the summit agreement for the cushioning of the blow of the Medicare cuts. It is my understanding, that some of the provisions that are provided in here, are not in conference in the Senate. I am not exactly clear on which ones are.

I would say to the gentlewoman, that we would go to conference with the Committee on Ways and Means with the effort to try to find and save as much as we could to cushion the blow of the Medicare and Medicaid cuts.

Ms. OAKAR. Mr. Chairman, reclaiming my time, I want to ask the gentleman from Missouri [Mr. GEPHARDT], as I look at some of these initiatives, some of them cost zero, including for the first year mammography coverage. I would question some of the other figures here. There are other provisions that do not cost anything.

Mr. Chairman, why do we have to cut that? Why can we not go into conference with those provisions?

Mr. PANETTA. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I will be happy to yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I think some of these provisions are going to be included on the finance side. Obviously they will be subject to full conference with regard to the Medicare provision.

Ms. OAKAR. Mr. Chairman, reclaiming my time, who will fight for the provisions I just mentioned? I am not part of that, and none of the female Members are in this body.

Mr. PANETTA. Mr. Chairman, if the gentlewoman will continue to yield, I do not think there is any question but that the leadership and certainly I, and I think the committee on Ways and Means, will fight for the same goals that the gentlewoman from Ohio [Ms. OAKAR] has expressed.

The CHAIRMAN. Is there objection to the modification?

There was no objection.

The CHAIRMAN. Does the gentleman from Minnesota [Mr. FRENZEL] still press his preferential motion?

Mr. FRENZEL. Mr. Chairman, was the unanimous-consent request approved?

The CHAIRMAN. Yes, it has been.

Mr. FRENZEL. Mr. Chairman, I ask unanimous consent to withdraw my preferential motion.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Chairman, I yield back all time under my motion and under the Panetta amendment.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from California [Mr. PANETTA].

The amendments en bloc, as modified, were agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 2100

Accordingly the Committee rose; and the Speaker pro tempore [Mr. KILDEE] having assumed the chair, Mr. MAVROULES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991, pursuant to House Resolution 509, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. PANETTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 203, not voting 3, as follows:

[Roll No. 475]

YEAS—227

Ackerman	Gonzalez	Olin
Alexander	Gordon	Ortiz
Anderson	Gray	Owens (NY)
Andrews	Guarini	Owens (UT)
Anthony	Hall (OH)	Panetta
Aspin	Hamilton	Parker
Atkins	Harris	Payne (NJ)
AuCoin	Hatcher	Payne (VA)
Bates	Hayes (IL)	Pease
Bellenson	Hefner	Pelosi
Bennett	Hoagland	Penny
Berman	Hochbrueckner	Pickle
Boehlert	Horton	Poshard
Boggs	Hoyer	Price
Bonior	Huckaby	Rahall
Borski	Hughes	Rangel
Boucher	Hutto	Ray
Boxer	Jacobs	Richardson
Brennan	Jenkins	Roe
Brooks	Johnson (SD)	Rose
Browder	Johnston	Rostenkowski
Brown (CA)	Kanjorski	Rowland (GA)
Bruce	Kaptur	Roybal
Bryant	Kastenmeier	Russo
Bustamante	Kennedy	Sabo
Byron	Kennelly	Sawyer
Cardin	Kildee	Scheuer
Carper	Kleczka	Schroeder
Chapman	Kostmayer	Schumer
Clarke	LaFalce	Serrano
Clay	Lancaster	Sharp
Clement	Lantos	Sikorski
Coleman (TX)	Leach (IA)	Sisisky
Collins	Lehman (CA)	Skaggs
Conte	Lehman (FL)	Skelton
Conyers	Levin (MI)	Slattery
Cooper	Levine (CA)	Slaughter (NY)
Costello	Lewis (GA)	Smith (FL)
Coyne	Lipinski	Smith (IA)
Crockett	Lloyd	Smith (VT)
Darden	Lowey (NY)	Solarz
Davis	Luken, Thomas	Spratt
de la Garza	Manton	Staggers
DeFazio	Markey	Stark
Dellums	Martinez	Stenholm
Derrick	Matsui	Stokes
Dicks	Mavroules	Studds
Dingell	Mazzoli	Swift
Dixon	McCloskey	Synar
Donnelly	McCurdy	Tallon
Dorgan (ND)	McDermott	Tanner
Downey	McGrath	Taylor
Durbin	McHugh	Thomas (GA)
Dwyer	McMillen (MD)	Torres
Dymally	McNulty	Torricelli
Early	Mfume	Towns
Eckart	Miller (CA)	Traxler
Edwards (CA)	Mineta	Udall
Engel	Mink	Unsoeld
Espy	Moakley	Valentine
Evans	Molinari	Vento
Fascell	Mollohan	Visclosky
Fazio	Montgomery	Volkmer
Feighan	Moody	Walgren
Fish	Morella	Washington
Flake	Morrison (CT)	Watkins
Flippo	Mrazek	Waxman
Foglietta	Murtha	Weiss
Ford (MI)	Natcher	Wheat
Ford (TN)	Neal (MA)	Whitten
Frank	Neal (NC)	Wilson
Frost	Nelson	Wise
Gejdenson	Nowak	Wolpe
Gephardt	Oakar	Wyden
Gibbons	Oberstar	Yates
Glickman	Obey	

NAYS—203

Annunzio	Bentley	Bunning
Applegate	Bereuter	Burton
Archer	Bevill	Callahan
Armey	Bilbray	Campbell (CA)
Baker	Bilirakis	Campbell (CO)
Ballenger	Billey	Carr
Barnard	Bosco	Chandler
Bartlett	Broomfield	Clinger
Barton	Brown (CO)	Coble
Bateman	Buechner	Coleman (MO)

Combest	Johnson (CT)	Robinson
Condit	Jones (GA)	Rogers
Coughlin	Jones (NC)	Rohrabacher
Courter	Jontz	Ros-Lehtinen
Cox	Kasich	Roth
Craig	Kolbe	Roukema
Crane	Kolter	Saiki
Dannemeyer	Kyl	Sangmeister
DeLay	Lagomarsino	Sarpalius
DeWine	Laughlin	Savage
Dickinson	Leath (TX)	Saxton
Dornan (CA)	Lent	Schaefer
Douglas	Lewis (CA)	Schiff
Dreier	Lewis (FL)	Schneider
Duncan	Lightfoot	Schuette
Dyson	Livingston	Schulze
Edwards (OK)	Long	Sensenbrenner
Emerson	Lowery (CA)	Shaw
English	Lukens, Donald	Shays
Erdreich	Machtley	Shumway
Fawell	Madigan	Shuster
Fields	Marlenee	Skeen
Frenzel	Martin (IL)	Slaughter (VA)
Gallegly	Martin (NY)	Smith (NE)
Gallo	McCandless	Smith (NJ)
Gaydos	McCollum	Smith (TX)
Gekas	McCrery	Smith, Denny (OR)
Geren	McDade	Smith, Robert (NH)
Gillmor	McEwen	Smith, Robert (OR)
Gilman	McMillan (NC)	Snowe
Gingrich	Meyers	Solomon
Goodling	Miller (OH)	Spence
Goss	Miller (WA)	Stallings
Gradison	Moorhead	Stangeland
Grandy	Morrison (WA)	Stearns
Grant	Murphy	Stump
Green	Myers	Sundquist
Gunderson	Nagle	Tauke
Hall (TX)	Nielson	Tauzin
Hammerschmidt	Oxley	Thomas (WY)
Hancock	Packard	Traficant
Hansen	Pallone	Upton
Hastert	Parris	Vander Jagt
Hawkins	Pashayan	Vucanovich
Hayes (LA)	Patterson	Walker
Hefley	Paxon	Walsh
Henry	Perkins	Weber
Herger	Petri	Weldon
Hertel	Pickett	Whittaker
Hiler	Porter	Williams
Holloway	Pursell	Wolf
Hopkins	Quillen	Wylie
Houghton	Ravenel	Yatron
Hubbard	Regula	Young (AK)
Hunter	Rhodes	Young (FL)
Hyde	Ridge	
Inhofe	Rinaldo	
Ireland	Ritter	
James	Roberts	

NOT VOTING—3

Michel	Rowland (CT)	Thomas (CA)

□ 2118

Mr. HERGER changed his vote from "yea" to "nay."

Ms. OAKAR, Mrs. SCHROEDER, Mr. ECKART, and Mr. PAYNE of New Jersey changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5835, OMNIBUS BUDGET RECONCILIATION ACT OF 1990

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5835, as amended, the Clerk be authorized to correct section numbers, cross-references, punctuation, and grammatical and spelling errors, to correct the title and table of contents, and to make such clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on H.R. 5835, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman for California,

There was no objection.

101ST CONGRESS
2D SESSION

H. R. 5835

IN THE SENATE OF THE UNITED STATES

OCTOBER 17 (legislative day, OCTOBER 2), 1990
Received

AN ACT

To provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1990".

SEC. 2. TABLE OF TITLES

TITLE IV—COMMITTEE ON ENERGY AND COMMERCE

TABLE OF CONTENTS OF TITLE

Subtitle A—Provisions Relating to Medicare Program and Regulation of Medicare Supplemental Insurance Policies

PART 2—PROVISIONS RELATING TO PARTS A AND B

Subpart B—Other Provisions

SEC. 4121. EXTENSION OF SECONDARY PAYOR PROVISIONS.

(a) EXTENSION OF RENAL DISEASE PERIOD FROM 12 TO 18 MONTHS.—Section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) is amended by striking "12-month period" each place it appears and inserting "18-month period".

(b) ELIMINATION OF SUNSET FOR TRANSFER OF DATA PROVISION.—Section 1862(b)(5)(C) of such Act (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(c) ELIMINATION OF SUNSET ON APPLICATION TO DISABLED BENEFICIARIES.—

(1) IN GENERAL.—Section 1862(b)(1)(B) of such Act (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "(iv)(II)" and "(iv)(I)" and inserting "(iii)(II)" and "(iii)(I)", respectively,

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1), (2), and (3)(B) of section 1837(i) of such Act (42 U.S.C. 1395p(i)) and section 1839(b) of such Act (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" and inserting "1862(b)(1)(B)(iii)".

(d) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to group health plans for plan years beginning on or after January 1, 1991.

(2) The amendments made by subsections (b) and (c) shall take effect on the date of the enactment.

Part 3—Provisions Relating to Beneficiaries

SEC. 4201. PART B PREMIUM.

(a) $1 INCREASE IN PREMIUM FOR 1991.—Notwithstanding any other provision of law, but subject to subsections (b) and (f) of section 1839 of the Social Security Act, the amount of the monthly premium under such section, applicable for individuals enrolled under part B of title XVIII of such title for 1991, shall be increased by $1 above the amount of such premium otherwise determined under section 1839(a)(3) of such Act.

(b) PREMIUM FOR YEARS 1992 THROUGH 1995.—Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)) is amended—

(1) in paragraph (1), by inserting "and for each month after December 1991 and prior to January 1996" after "January 1991", and

(2) in paragraph (2), by striking "1991" and inserting "1996".

Subtitle B—Medicaid Program

SEC. 4403. COMPUTER MATCHING AND PRIVACY REVISIONS.

(a) VERIFICATION REQUIREMENTS.—Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

"(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance

with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.".

(b) ISSUANCE OF GUIDANCE BY DIRECTOR OF OMB.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this section.

(c) LIMITATION ON APPLICATION OF VERIFICATION REQUIREMENT.—Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by subsection (a), shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b-7), until the earlier of—

PART 2—PROTECTION OF LOW-INCOME MEDICARE BENEFICIARIES

SEC. 4411. EXTENDING MEDICAID PAYMENT FOR MEDICARE PREMIUMS FOR CERTAIN INDIVIDUALS WITH INCOME BELOW 125 PERCENT OF THE OFFICIAL POVERTY LINE.

(a) ENTITLEMENT.—Section 1902(a)(10)(E)(ii) of the Social Security Act (42 U.S.C. 1395b(a)(10)(E)(ii)) is amended by inserting "(I)" before "for qualified" and by inserting before the comma the following: "and (II) subject to section 1905(p)(4), for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) but is less than 125 percent of the official poverty line (referred to in such section) for a family of the size involved".

(b) FEDERAL PAYMENT OF FULL COSTS OF ADDITIONAL MEDICAL ASSISTANCE.—The last sentence of section

1905(b) of such Act (42 U.S.C. 1396d(b)) is amended by inserting before the period at the end the following: "and with respect to amounts expended for medicare cost-sharing described in subsection (p)(3)(A)(i) for individuals described in section 1902(a)(10)(E)(ii)(II)".

(c) APPLICATION IN CERTAIN STATES AND TERRITORIES.—Section 1905(p)(4) of such Act (42 U.S.C. 1396d(p)(4)) is amended—

(1) in subparagraph (B), by inserting "or 1902(a)(10)(E)(ii)(II)" after "subparagraph (B)", and

(2) by adding at the end the following:

"In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirement of section 1902(a)(10)(E) in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title."

(d) CONFORMING AMENDMENT.—Section 1843(h) of such Act (42 U.S.C. 1395v(h)) is amended by adding at the end the following new paragraph:

"(3) In this subsection, the term 'qualified medicare beneficiary' also includes an individual described in section 1902(a)(10)(E)(ii)(II).".

(e) DELAY IN COUNTING SOCIAL SECURITY COLA INCREASES UNTIL NEW POVERTY GUIDELINES PUBLISHED.—

(1) IN GENERAL.—Section 1905(p) of such Act is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(D)" after "supplementary social security income program", and

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

"(D)(i) In determining under this subsection the income of an individual who is entitled to monthly insurance benefits under title II for a transition month (as defined in clause (ii)) in a year, such income shall not include any amounts attributable to an increase in the level of monthly insurance benefits payable under such title which have occurred pursuant to section 215(i) for benefits payable for months beginning with December of the previous year.

"(ii) For purposes of clause (i), the term 'transition month' means each month in a year through the month following the month in which the annual revision of the official poverty line, referred to in subparagraph (A), is published.".

(2) CONFORMING AMENDMENTS.—Section 1902(m) of such Act (42 U.S.C. 1396a(m)) is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(C)" after "supplemental security income program", and

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

"(C) The provisions of section 1905(p)(2)(D) shall apply to determinations of income under this subsection in the same manner as they apply to determinations of income under section 1905(p).".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after January 1, 1991, without regard to whether or not regulations to implement such amendments are promulgated by such date; except that the amendments made by subsection (d) shall apply to determinations of income for months beginning with January 1991.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

TABLE OF CONTENTS

Subtitle F—Miscellaneous

SEC. 11051. USE OF TAX RETURN INFORMATION TO VERIFY INCOME FOR PURPOSES OF NEEDS-BASED BENEFITS AND SERVICES OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) DISCLOSURE OF TAX INFORMATION TO DVA.—(1) Subparagraph (D) of section 6103(1)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(A) by striking out "and" at the end of clause (vi),

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and", and

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

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or any other law administered by the Secretary of Veterans Affairs;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total (except that, in such cases, only wage and self-employment information may be disclosed).".

(2) The heading of paragraph (7) of section 6103(1) of such Code is amended by striking out "OR THE FOOD STAMP ACT OF 1977" and inserting in lieu thereof ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) USE OF INCOME INFORMATION FOR NEEDS-BASED PROGRAMS.—(1) Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or

the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986.

"(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or any other law administered by the Secretary.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation pursuant to a rating of total disability awarded by reason of inability to secure or follow a substantially gainful occupation as a result of a service-connected disability, or service-connected disabilities, not rated as total.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

"(f)(1) If funds appropriated to the Department of Veterans Affairs for general operating expenses for any fiscal year do not include sufficient amounts provided for the purpose of carrying out this section during that fiscal year, the

Secretary shall pay the expenses of carrying out this section during that fiscal year (to the extent that such general operating expenses appropriations are insufficient for that purpose) from amounts available to the Department for the payment of compensation and pension.

"(2) For any fiscal year for which the authority provided by paragraph (1) is used, if a supplemental appropriation law is enacted to provide additional funds to the Department of Veterans Affairs for general operating expenses for that fiscal year which are to be available for the purpose of carrying out this section, such supplemental appropriations for such purpose shall (to the extent available) be used to reimburse appropriations provided for payment of compensation and pension for any expenses previously charged against such appropriations for the administration of this section.

"(g) The authority of the Secretary to obtain information from the Secretary of the Treasury or the Secretary of Health and Human Services under section 6103(1)(7)(D)(viii) of the Internal Revenue Code of 1986 expires on September 30, 1992.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO CURRENT BENEFICIARIES.—(1) The Secretary of Veterans Affairs shall notify individuals who (as of the enactment of this Act) are applicants for or recipients

of the benefits described in subsection (b) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)).

(2) Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(3) The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until such notification under paragraph (1) is made.

SEC. 11053. MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS BY BENEFITS CLAIMANTS AND USES OF DEATH INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS.—Section 3001 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Any person who applies for or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of any such benefits. A person is not required to furnish the Secretary with a social security number for any

person to whom a social security number has not been assigned.

"(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number.".

(b) REVIEW OF DEPARTMENT OF HEALTH AND HUMAN SERVICES DEATH INFORMATION TO IDENTIFY DECEASED RECIPIENTS OF COMPENSATION AND PENSION BENEFITS.—(1) Chapter 53 of title 38, United States Code, as amended by section 11051, is further amended by adding at the end the following new section:

"§ 3118. Review of Department of Health and Human Services death information

"(a) The Secretary shall periodically compare Department of Veterans Affairs information regarding persons to or for whom compensation or pension is being paid with Department of Health and Human Services death information for the purposes of—

"(1) determining whether any such persons are deceased;

"(2) ensuring that such payments to or for any such persons who are deceased are terminated in a timely manner; and

"(3) ensuring that collection of overpayments of such benefits resulting from payments after the death of such persons is initiated in a timely manner.

"(b) The Department of Health and Human Services death information referred to in subsection (a) of this section is death information available to the Secretary from or through the Secretary of Health and Human Services, including death information available to the Secretary of Health and Human Services from a State, pursuant to a memorandum of understanding entered into by such Secretaries.".

(2) The table of sections at the beginning of such chapter is further amended by adding at the end the following:

"3118. Review of Department of Health and Human Services death information.".

TITLE XII—COMMITTEE ON WAYS AND MEANS: SPENDING

TABLE OF CONTENTS OF TITLE

Subtitle C—Provisions Relating to Medicare Parts A and B

SEC. 12202. EXTENSION OF SECONDARY PAYOR PROVISIONS.

(a) IDENTIFICATION OF MEDICARE SECONDARY PAYOR SITUATIONS.—

(1) Section 1862(b)(5)(C)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking "September 30, 1991" and inserting "September 30, 1995";

(B) in clause (ii)(I), by striking "1990" and inserting "1994"; and

(C) in clause (ii)(II), by striking "1991" and inserting "1995".

(b) MEDICARE SECONDARY PAYOR FOR THE DISABLED.—Section 1862(b)(1)(B)(iii) of such Act (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "January 1, 1992" and inserting "October 1, 1995".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment and

the amendment made by subsection (a)(2)(B) shall apply to requests made on or after such date.

Subtitle D—Provisions Relating to Medicare Part B Premium and Deductible

SEC. 12301. PART B PREMIUM.

Section 1839(e)(1) of the Social Security Act (42 U.S.C. 1395r(e)(1)) is amended—

(1) by inserting "(A)" after "(e)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) Notwithstanding the provisions of subsection (a), the monthly premium for each individual enrolled under this part for each month in—

"(i) 1991 shall be $29.90,

"(ii) 1992 shall be $31.70,

"(iii) 1993 shall be $36.50,

"(iv) 1994 shall be $41.20, and

"(v) 1995 shall be $46.20.".

Subtitle E—User Fees

SEC. 12404. RECOVERY OF OASDI OVERPAYMENTS BY MEANS OF REDUCTION IN TAX REFUNDS.

(a) ADDITIONAL METHOD OF RECOVERY.—Section 204(a)(1)(A) of the Social Security Act (42 U.S.C. 404(a)(1)(A)) is amended by inserting after "payments to such overpaid person," the following: "or shall obtain recovery by means of reduction in tax refunds based on notice to

the Secretary of the Treasury as permitted under section 3720A of title 31, United States Code,".

(b) RECOVERY BY MEANS OF REDUCTION IN TAX REFUNDS.—Section 3720A of title 31, United States Code (relating to collection of debts owed to Federal agencies) is amended—

(1) in subsection (a), by striking "OASDI overpayment and";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting the following new subsection after subsection (e):

"(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

"(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Secretary of Health and Human Services is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

"(B) In any case in which an individual files for a waiver under section 204(b) within the 60-day period re-

ferred to in subsection (b)(2), the Secretary of Health and Human Services shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under section 204(b).

"(3) In lieu of payment, pursuant to subsection (c), to the Secretary of Health and Human Services of the amount of any reduction under this subsection based on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Secretary of Health and Human Services.".

(c) INTERNAL REVENUE CODE PROVISIONS.—

(1) IN GENERAL.—Subsection (d) of section 6402 of the Internal Revenue Code of 1986 (relating to collection of debts owed to Federal agencies) is amended—

(A) in paragraph (1), by striking "any OASDI overpayment and"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) TREATMENT OF OASDI OVERPAYMENTS.—

"(A) REQUIREMENTS.—Paragraph (1) shall apply with respect to an OASDI overpayment only if the requirements of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

"(B) NOTICE; PROTECTION OF OTHER PERSONS FILING JOINT RETURN.—

"(i) NOTICE.—In the case of a debt consisting of an OASDI overpayment, if the Secretary determines upon receipt of the notice referred to in paragraph (1) that the refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

"(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

"(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

"(ii) ADJUSTMENTS BASED ON PROTECTIONS GIVEN TO OTHER TAXPAYERS ON

JOINT RETURN.—If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reductions in refunds under this subsection and are payable to a trust fund referred to in subparagraph (C).

"(C) DEPOSIT OF AMOUNT OF REDUCTION INTO APPROPRIATE TRUST FUND.—In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Secretary of Health and Human Services, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Secretary of Health and Human Services.

"(D) OASDI OVERPAYMENT.—For purposes of this paragraph, the term 'OASDI overpayment'

means any overpayment of benefits made to an individual under title II of the Social Security Act.".

(2) PRESERVATION OF REMEDIES.—Subsection (e) of section 6402 of such Code (relating to review of reductions) is amended in the last sentence by inserting before the period the following: "or any such action against the Secretary of Health and Human Services which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act".

(d) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect January 1, 1991, and

(2) shall not apply to refunds to which the amendments made by section 2653 of the Deficit Reduction Act of 1984 (98 Stat. 1153) do not apply.

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

SEC. 13001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—Except as otherwise expressly provided in this title, no amendment made by this title shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

Subtitle A—Individual Income Tax Provisions; Luxury Excise Tax

PART I—PROVISIONS AFFECTING HIGH-INCOME INDIVIDUALS

SEC. 13105. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) is amended—

(A) by striking "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears and inserting "applicable contribution base (as determined under subsection (x))", and

(B) by striking "such contribution and benefit base" and inserting "such applicable contribution base".

(2) APPLICABLE CONTRIBUTION BASE.—Section 3121 is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the taxes imposed by sections 3101(a) and 3111(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by section 3101(b) and 3111(b), the applicable contribution base is—

"(A) $100,000 for calendar year 1991, and

"(B) for any calendar year after 1991, $100,000 adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230 of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so

much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substitut-

ed for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

(2) Sections 3122 and 3125 are each amended by striking "contribution and benefit base limitation" each place it appears and inserting "applicable contribution base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1991 and later calendar years.

PART V—EMPLOYMENT TAX PROVISIONS

SEC. 13341. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

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

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4)) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade

or business for purposes of inclusion of such fees in net earnings from self-employment.

(b) EMPLOYMENT UNDER FICA.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

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

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system (as defined in section 218(b)(4) of the Social Security Act) of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment.

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

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

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after December 31, 1990.

SEC. 13343. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which

such person has $100,000 or more of such taxes for deposit.".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

TITLE XIV—BUDGET PROCESS REFORM

SEC. 14001. TABLE OF CONTENTS.

Subtitle A—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985 and Related Amendments

PART I—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

SEC. 14101. SEQUESTRATION.

Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) is amended to read as follows:

"SEC. 250. TABLE OF CONTENTS; DEFINITIONS.

"(a) TABLE OF CONTENTS.—

"Sec. 259. Modification of presidential order.

"(b) DEFINITIONS.—As used in this part:

"(1) The terms 'budget authority', 'outlays', and 'deficit' have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 (but including the treatment specified in section 257(b)(3) of the Health Insurance Trust Fund) and the terms 'maximum deficit amount' and 'discretionary spending limit' shall mean the amounts specified in section 601 of that Act as adjusted under sections 251 and 253 of this Act.

"(2) The terms 'sequester' and 'sequestration' refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

"(3) The term 'breach' means, for any fiscal year, the amount (if any) by which new budget authority or outlays for that year (within a category of discretionary appropriations) is above that category's discretionary spending limit for new budget authority or outlays for that year, as the case may be.

"(4) The term 'category' means:

"(A) For fiscal years 1991, 1992, and 1993, any of the following subsets of discretionary appropriations: defense, international, or domestic. Discretionary appropriations in the defense cate-

gory shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. Discretionary appropriations in the international category shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. All other discretionary appropriations shall be in the domestic category. New accounts or activities shall be categorized in accordance with the procedures set forth in section 1104 of title 31, United States Code.

Contributions to the United States to offset the cost of operation desert shield are not counted within any category.

"(B) For fiscal years 1994 and 1995, all discretionary appropriations.

"(5) The term 'baseline' means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

"(6) The term 'budgetary resources' means—

"(A) with respect to budget year 1991, new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct

loan obligations, commitments, or limitations; direct spending authority; and obligation limitations; or

"(B) with respect to budget year 1992, 1993, 1994, or 1995, new budget authority; unobligated balances; direct spending authority; and obligation limitations.

"(7) The term 'discretionary appropriations' means budgetary resources (except to fund direct-spending programs) provided in appropriation Acts.

"(8) The term 'direct spending' means—

"(A) budget authority provided by law other than appropriation Acts;

"(B) budget authority for mandatory appropriations; and

"(C) the food stamp program.

"(9) The term 'current' means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31, United States Code, the estimates consistent with the economic and technical assumptions underlying that budget and with respect to estimates made after submission of the fiscal year 1992 budget that are not included with a budget submission, estimates consistent with the economic and

technical assumptions underlying the most recently submitted President's budget.

"(10) The term 'real economic growth', with respect to any fiscal year, means the growth in the gross national product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

"(11) The sale of an asset means the sale to the public of—

"(A) any financial asset sold in fiscal year 1991,

"(B) any financial asset other than a loan asset sold after fiscal year 1991, or

"(C) any physical asset other than one produced on a current basis,

except any asset acquired by the Government under an insurance program or as a result of a default under a loan or loan-guarantee program.

"(12) The term 'prepayment of a loan' means payments to the United States made in advance of the slowest payment schedule allowed or set by law or contract when the financial asset is first acquired.

"(13) The term 'account' means an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriation Acts, such

term means an item for which there is a designated budget account identification code number in the President's budget.

"(14) The term 'budget year' means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

"(15) The term 'current year' means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

"(16) The term 'outyear' means, with respect to a budget year, any of the fiscal years that follow the budget year through fiscal year 1995.

"(17) The term 'OMB' means the Director of the Office of Management and Budget.

"(18) The term 'CBO' means the Director of the Congressional Budget Office.

"SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.

"(a) FISCAL YEARS 1991–1995 ENFORCEMENT.—

"(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session, there shall be a sequestration to eliminate a budget-year breach, if any, within any category.

"(2) ELIMINATING A BREACH.—Each non-exempt account within a category shall be reduced by

a dollar amount calculated by multiplying the enacted level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category; except that the health programs set forth in section 256(e) shall not be reduced by more than 2 percent and the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to eliminate that breach. If, within a category, the discretionary spending limits for both new budget authority and outlays are breached, the uniform percentage shall be calculated by—

"(A) first, calculating the uniform percentage necessary to eliminate the breach in new budget authority, and

"(B) second, if any breach in outlays remains, increasing the uniform percentage to a level sufficient to eliminate that breach.

"(3) MILITARY PERSONNEL.—If the President uses the authority to exempt any military personnel from sequestration under section 255(h), each account within subfunctional category 051 other than those military personnel accounts for which the authority provided under section 255(h), has been exercised shall be further reduced by a dollar amount calculated by

multiplying the enacted level of non-exempt budgetary resources in that account at that time by the uniform percentage necessary to offset the total dollar amount by which outlays are not reduced in military personnel accounts by reason of the use of such authority.

"(4) PART-YEAR APPROPRIATIONS.—If, on the date specified in paragraph (1), there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then—

"(A) the enacted amount in that account shall be deemed to be the annualized amount otherwise available by law; and

"(B) the dollar sequestration calculated for that account under paragraphs (2) and (3) shall be subtracted from—

"(i) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(ii) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation.

"(5) LOOK-BACK.—If, after the date specified in paragraph (1), an appropriation for the fiscal year in progress is enacted that causes a breach within a cate-

gory for that year (after taking into account any sequestration of amounts within that category), the discretionary spending limits for that category for the next fiscal year shall be reduced by the amount or amounts of that breach.

"(6) OMB ESTIMATES.—Within 5 calendar days after the enactment of any discretionary appropriations, OMB shall publish in the Federal Register an estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation. OMB shall use those published estimates for the purposes of this subsection.

"(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—(1) When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1995 to reflect the following:

"(A) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustments produced by the amendments made by subtitles A and B of title XIV of the Omnibus Budget Reconciliation Act of 1990 or by any other

changes in concepts and definitions shall be the baseline levels of new budget authority and outlays using current concepts and definitions minus those levels using the concepts and definitions in effect before such changes.

"(B) CHANGES IN INFLATION.—(i) For a budget submitted for budget year 1992 or 1993, the adjustments produced by changes in inflation shall be the levels of discretionary new budget authority and outlays in the baseline (calculated using current estimates) subtracted from those levels in that baseline recalculated with the baseline inflators multiplied by the inflation adjustment factor computed under clause (ii).

"(ii) For a budget year the inflation adjustment factor shall be the ratio between the level of cumulative inflation measured for the fiscal year most recently completed and the applicable estimated level for that year set forth below:

"For 1990, 130.3.

"For 1991, 137.1.

"For 1992, 142.7.

"For 1993, 147.4.

Cumulative inflation shall be measured by the index of the fiscal year average of the estimated gross national

product implicit price deflator, with the calendar year 1989 index equal to 100.0.

"(C) CREDIT REESTIMATES.—For a budget submitted for budget year 1993 or 1994, the adjustments produced by reestimates to costs of Federal credit programs shall be, for any such program, a current estimate of new budget authority and outlays associated with a baseline projection of the prior year's gross loan level for that program minus the baseline projection of the prior year's new budget authority and associated outlays for that program.

"(2) When OMB submits a sequestration report under section 254(e) for fiscal year 1991, 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the sequestration report and subsequent budgets submitted by the President under section 1105(a) of title 31, United States Code, shall include, adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year through 1995, as follows:

"(A) IRS FUNDING.—To the extent that appropriations requested by the President are enacted that provide additional new budget authority or result in additional outlays (as compared to the summer 1990 CBO baseline) for the Internal Revenue Service com-

pliance initiative in any fiscal year, the adjustments for that year shall be those amounts, but shall not exceed the amounts set forth below:

"For fiscal year 1991, $191,000,000 in new budget authority and $183,000,000 in outlays.

"For fiscal year 1992, $172,000,000 in new budget authority and $169,000,000 in outlays.

"For fiscal year 1993, $183,000,000 in new budget authority and $179,000,000 in outlays.

"For fiscal year 1994, $187,000,000 in new budget authority and $183,000,000 in outlays.

"For fiscal year 1995, $188,000,000 in new budget authority and $184,000,000 in outlays.

"(B) DEBT FORGIVENESS.—If in calendar year 1990 or 1991 an appropriation is enacted that provides debt relief proposed by the President and approved by the Congress, the adjustments shall be the estimated costs of that forgiveness, but shall not exceed the amounts set forth below:

"For fiscal year 1991, $157,000,000 in new budget authority and $207,000,000 in outlays.

"For fiscal year 1992, $177,000,000 in new budget authority and $294,000,000 in outlays.

"For fiscal year 1993, $205,000,000 in new budget authority and $361,000,000 in outlays.

"For fiscal year 1994, $246,000,000 in new budget authority and $446,000,000 in outlays.

"For fiscal year 1995, $300,000,000 in new budget authority and $522,000,000 in outlays.

"(C) IMF FUNDING.—If, for fiscal year 1992, 1993, 1994, or 1995, an appropriation is enacted that provides amounts for a quota increase to the International Monetary Fund, the adjustment shall be the amount provided.

"(D) EMERGENCY APPROPRIATIONS.—If, for fiscal year 1991, 1992, 1993, 1994, or 1995, appropriations are enacted that the President determines are for emergency purposes, the adjustment shall be the total of such appropriations determined to be for emergency purposes and the outlays flowing in all years from such appropriations.

"(E) SPECIAL ALLOWANCE FOR NEW BUDGET AUTHORITY.—If, for fiscal year 1991, 1992, or 1993, the amount of discretionary new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category for a fiscal year, the adjustment is the amount of the excess, but not to exceed 0.2 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for that year. How-

ever, the sum of special allowance adjustments in all categories for that year shall not exceed 0.4 percent of the sum of the limits on new budget authority for all categories for that year. Adjustments that would exist but for the preceding sentence shall be reduced by the uniform percentage necessary to comply with that sentence.

"(F) SPECIAL OUTLAY ALLOWANCE.—If in any fiscal year except 1991 outlays for a category exceed the discretionary spending limit for that category but new budget authority does not exceed its limit for that category (after application of the first step of a sequestration described in subsection (a)(2), if necessary), the adjustment is the amount of the excess, but not to exceed $2,500,000,000 in the defense category, $1,500,000,000 in the international category, or $2,500,000,000 in the domestic category (as applicable) in fiscal year 1992 or 1993, and not to exceed $6,500,000,000 in fiscal year 1994 or 1995.

"(c) APPLICABILITY OF ADJUSTED LIMITS.—Discretionary spending limits as adjusted by this section shall be considered to be the applicable limits for all purposes of this Act.

"SEC. 252. ENFORCING PAY-AS-YOU-GO.

"(a) FISCAL YEARS 1992–1995 ENFORCEMENT.—The purpose of this section is to assure that any legislation (enacted after the date of enactment of this section) affecting direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

"(b) SEQUESTRATION; LOOK-BACK.—On October 15 of each fiscal year, there shall be a sequestration to offset the amount of any net deficit increase in that fiscal year and the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts in a prior year). OMB shall calculate the amount of deficit increase, if any, in those fiscal years by adding—

"(1) all estimates of direct spending and receipts legislation published under subsection (e) applicable to those fiscal years, except that any amounts included in such estimates resulting from full funding of, and continuation of, deposit insurance law in effect on the date of enactment of this section shall not be included in the addition; and

"(2) the estimated amount of savings in direct spending programs applicable to those fiscal years resulting from the prior year's sequestration under this

section or section 253, if any, as published in OMB's October 15 sequestration report for that year.

"(c) ELIMINATING A DEFICIT INCREASE.—(1) The first $5,000,000,000 required to be sequestered in a fiscal year under subsection (a) shall be obtained from non-exempt direct spending accounts. Half of any remaining amounts required to be sequestered in that fiscal year, if any, shall be obtained from such accounts and half from non-exempt discretionary appropriation accounts.

"(2) Actions to reduce direct spending accounts shall be taken in the following order:

"(A) FIRST.—All reductions in automatic spending increases specified in section 256(a) shall be made.

"(B) SECOND.—If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

"(C) THIRD.—If additional reductions in direct spending accounts are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by paragraph (1); except that the medicare programs specified in section 256(d) shall not be reduced by more than 4 per-

cent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

"(3) Each non-exempt discretionary appropriation account shall be reduced by the uniform percentage necessary to make the reductions in discretionary appropriations required by paragraph (1); except that the health programs set forth in section 256(e) shall not be reduced by more than 2 percent and the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to eliminate that breach; except that adjustments shall be made if any military personnel are exempt under the procedure set forth in section 251(a)(3).

"(4) For purposes of this subsection, accounts shall be assumed to be at the level in the baseline.

"(d) PART-YEAR APPROPRIATIONS.—If, on October 15, there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then the dollar sequestration calculated for that account under subsection (c) shall be subtracted from—

"(1) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(2) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation; except that the amount to be subtracted from that account shall be reduced (but not below zero) by the savings achieved by that appropriation when the enacted amount is less than the baseline for that account.

"(e) OMB ESTIMATES.—Within 15 calendar days after the enactment of any direct spending or receipts legislation enacted after the date of enactment of this section, OMB shall publish in the Federal Register an estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from that legislation. Those estimates shall be made using current economic and technical assumptions.

"SEC. 253. ENFORCING DEFICIT TARGETS.

"(a) SEQUESTRATION.—On October 15 of each fiscal year, after any sequestration required by section 252 (pay-as-you-go), there shall be a sequestration to eliminate the excess deficit (if any remains) if it exceeds the margin. The excess deficit is the amount, if any, by which the estimated deficit for the budget year exceeds the maximum deficit amount for that year minus the deposit insurance reestimate for that year, if any, calculated under subsection (h).

"(b) ESTIMATED DEFICIT; MARGIN.—

"(1) ESTIMATED DEFICIT.—The estimated deficit for the budget year is the baseline deficit for that year on the applicable snapshot date minus any reductions required to be made under section 252, except that for purposes of estimating the deficit, outlays for discretionary appropriations shall be assumed to be at the discretionary spending limits set forth in the most recent President's budget submitted under section 1105(a) of title 31, United States Code, for that year, rather than at baseline levels.

"(2) MARGIN.—The 'margin' for fiscal year 1994 or 1995 is $15,000,000,000 minus any outlay adjustments for that year under section 251(b)(2)(A)(ii).

"(c) DIVIDING THE SEQUESTRATION.—To eliminate the excess deficit in a budget year, half of the required outlay reductions shall be obtained from non-exempt defense accounts (accounts designated as function 050 in the President's fiscal year 1991 budget submission) and half from non-exempt, non-defense accounts (all other non-exempt accounts).

"(d) DEFENSE.—Each non-exempt defense account shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (c)(2), except that adjustments shall be

made if any military personnel are exempt under the procedure set forth in section 251(a)(3).

"(e) NON-DEFENSE.—Actions to reduce non-defense accounts shall be taken in the following order:

"(1) FIRST.—All reductions in automatic spending increases under section 256(a) shall be made.

"(2) SECOND.—If additional reductions in non-defense accounts are required to be made, the maximum reduction permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

"(3) THIRD.—If additional reductions in non-defense accounts are required to be made, each remaining non-exempt, non-defense account shall be reduced by the uniform percentage necessary to make the reductions in non-defense outlays required by subsection (c)(2), except that—

"(A) the medicare program specified in section 256(d) shall not be reduced by more than 2 percent in total including any reduction of less than 2 percent made under section 252 or, if it has been reduced by 2 percent or more under section 252, it may not be further reduced under this section; and

"(B) the health programs set forth in section 256(e) shall not be reduced by more than 2 percent in total (including any reduction made under section 252),

and the uniform percent applicable to all other programs under this subsection shall be increased (if necessary) to a level sufficient to achieve the required reduction in non-defense outlays.

"(f) BASELINE ASSUMPTIONS; PART-YEAR APPROPRIATIONS.—

"(1) BUDGET ASSUMPTIONS.—For purposes of subsections (c), (d), and (e), accounts shall be assumed to be at the level in the baseline.

"(2) PART-YEAR APPROPRIATIONS.—If, on October 15, there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then the dollar sequestration calculated for that account under subsection (d) or (e), as applicable, shall be subtracted from—

"(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation; except

that the amount to be sequestered from that account shall be reduced (but not below zero) by the savings achieved by that appropriation when the enacted amount is less than the baseline for that account.

"(g) ADJUSTMENTS TO MAXIMUM DEFICIT AMOUNTS.—

"(1) ADJUSTMENTS.—

"(A) When the President submits the budget for fiscal year 1992, the maximum deficit amounts for fiscal years 1992, 1993, 1994, and 1995 shall be adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions. When the President submits the budget for fiscal year 1993, the maximum deficit amounts for fiscal years 1993, 1994, and 1995 shall be further adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions.

"(B) When submitting the budget for fiscal year 1994, the President may choose to adjust the maximum deficit amounts for fiscal years 1994 and 1995 to reflect up-to-date reestimates of economic and technical assumptions and any

changes in concepts or definitions. If the President chooses to adjust the maximum deficit amount when submitting the fiscal year 1994 budget, the President may choose to invoke the same adjustment procedure when submitting the budget for fiscal year 1995. In each case, the President must choose between making no adjustment or the full adjustment described in paragraph (2). If the President chooses to make that full adjustment, then those procedures for adjusting discretionary spending limits described in sections 251(b)(l)(B), 251(b)(1)(C), and 251(b)(2)(E), otherwise applicable through fiscal year 1993 or 1994 (as the case may be), shall be deemed to apply for fiscal year 1994 (and 1995 if applicable).

Each adjustment shall be made by increasing or decreasing the maxiumum deficit amounts set forth in section 601 of the Congressional Budget Act of 1974.

"(2) CALCULATIONS OF ADJUSTMENTS.—The required increase or decrease shall be calculated as follows:

"(A) The baseline deficit or surplus shall be calculated using up-to-date economic and technical assumptions, using current concepts and defi-

nitions, and for the levels of discretionary appropriations, using the discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974 as adjusted under section 251.

"(B) The net deficit increase or decrease caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts) shall be calculated for each fiscal year by adding—

"(i) the estimates of direct spending and receipts legislation published under section 252(e) applicable to each such fiscal year; and

"(ii) the estimated amount of savings in direct spending programs applicable to each such fiscal year resulting from the prior year's sequestration under this section or section 252 of direct spending, if any, as published in OMB's final sequestration report for that year.

"(C) The amount calculated under subparagraph (B) shall be subtracted from the amount calculated under subparagraph (A).

"(D) The maximum deficit amount set forth in section 601 of the Congressional Budget Act of 1974 shall be subtracted from the amount calculated under subparagraph (C).

"(E) The amount calculated under subparagraph (D) shall be the amount of the adjustment required by paragraph (1).

"(h) TREATMENT OF DEPOSIT INSURANCE.—

"(1) INITIAL ESTIMATES.—The initial estimates of the net costs of federal deposit insurance (assuming full funding of, and continuation of, existing law) are as follows:

"For fiscal year 1992, $77,700,000,000.

"For fiscal year 1993, $18,800,000,000.

"For fiscal year 1994, −$54,200,000,000.

"For fiscal year 1995, −$45,300,000,000.

"(2) REESTIMATES.—For any fiscal year, the amount of the reestimate of deposit insurance costs shall be calculated by subtracting the amount set forth in paragraph (1) for that year from the current estimate of deposit insurance costs (but assuming full funding of, and continuation of, deposit insurance law in effect on the date of enactment of this section).

"SEC. 254. REPORTS AND ORDERS.

"(a) TIMETABLE.—The timetable with respect to this part for any budget year is as follows:

"On or before:	Action to be completed:
First Monday in February	Lock in OMB estimating assumptions.
August 15	Initial snapshot.
August 20	Sequester preview report.
Latest possible date before October 15	Final snapshot.
October 15	Pay-as-you-go and deficit sequester reports; Presidential order.
Within 15 days after end of session	Discretionary sequester reports; Presidential order.
30 days later	GAO compliance report.

If any date specified in this section falls on a Sunday or legal holiday, then the requirements for that date shall be considered to fall on the following day.

"(b) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION PREVIEW REPORTS.—

"(1) REPORTING REQUIREMENT.—On the date specified in subsection (a), OMB and CBO shall each issue a preview report regarding pay-as-you-go and deficit sequestration to the President and the Congress based on laws enacted through the initial snapshot date.

"(2) PAY-AS-YOU-GO SEQUESTRATION PREVIEW.—The reports referred to in paragraph (1) shall set forth, for the current year and the budget year, estimates for each of the following:

"(A) The amount of net deficit increase or decrease, if any, calculated under subsection 252(b).

"(B) A list identifying each law enacted after the date of enactment of this section included in the calculation of the amount of deficit increase and specifying the budgetary effect of each such law.

"(C) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 252(c).

"(3) DEFICIT SEQUESTRATION PREVIEW.—The reports referred to in paragraph (1) shall set forth for the budget year estimates for each of the following:

"(A) The maximum deficit amount, the estimated deficit calculated under section 253(b), the excess deficit, and the margin.

"(B) The reductions required under section 252, the excess deficit remaining after those reductions have been made, and the reductions required from defense accounts and the reductions required from non-defense accounts.

"(C) The sequestration percentage necessary to achieve the required reduction in defense accounts under section 253(d).

"(D) The reductions required under sections 253(e)(1) and 253(e)(2).

"(E) The sequestration percentage necessary to achieve the required reduction in non-defense accounts under section 253(e)(3).

The reports shall explain the differences (if any) between OMB and CBO estimates for each item set forth in this subsection.

"(c) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before the initial snapshot date specified in subsection (a), the President shall notify the Congress if he intends to exercise flexibility with respect to military personnel accounts under section 255(h).

"(d) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORT; PRESIDENTIAL ORDER.—

"(1) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORT.—On the date specified in subsection (a), OMB and CBO shall each issue a pay-as-you-go and deficit sequestration report, updated to reflect laws enacted through the final snapshot date, containing all of the information required in the pay-as-you-go and deficit sequestration preview report. In addition, these re-

ports shall contain, for the budget year, for each non-exempt account subject to sequestration, estimates of the baseline level of sequestrable budgetary resources and resulting outlays and the amount and percentage of budgetary resources to be sequestered and resulting outlay reductions. The reports shall also contain estimates of the effects on outlays of the sequestration in each outyear through 1995 for direct spending programs. The reports shall explain significant differences (if any) between OMB and CBO estimates for each such account.

"(2) PRESIDENTIAL ORDER.—On the date specified in subsection (a), if in its pay-as-you-go and deficit sequestration report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by OMB calculations set forth in that report. This order shall be effective on issuance.

"(e) DISCRETIONARY SEQUESTRATION REPORT; PRESIDENTIAL ORDER.—

"(1) DISCRETIONARY SEQUESTRATION REPORT.—Within 15 days after Congress adjourns to end a session, OMB and CBO shall each issue a discretionary sequestration report to the President and the

Congress setting forth estimates for each of the following:

"(A) For the current year and each subsequent year through 1995 the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

"(B) For the current year and the budget year the estimated new budget authority and outlays for each category and the breach, if any, in each category.

"(C) For each category for which a sequestration is required, the sequestration percentage necessary to achieve the required reduction.

"(D) For the budget year, for each nonexempt account subject to sequestration, estimates of the enacted level of sequestrable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions, and an explanation of significant differences, if any, between OMB and CBO estimates for each such account.

"(2) PRESIDENTIAL ORDER.—On the date specified in subsection (a), if in its discretionary sequestration report OMB estimates that any sequestration is re-

quired, the President shall issue an order fully implementing without change all sequestrations required by OMB calculations set forth in that report. This order shall be effective on issuance.

"(f) GAO COMPLIANCE REPORT.—On the date specified in subsection (a), the Comptroller General shall submit to the Congress and the President a report on—

"(1) the extent to which each order issued by the President under this section complies with all of the requirements contained in this part, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

"(2) the extent to which each report issued by OMB or CBO under this section complies with all of the requirements contained in this part, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not.

"(g) LOW-GROWTH REPORT.—At any time, CBO shall notify the Congress if—

"(1) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, CBO or OMB has determined

that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

"(2) the Department of Commerce advance reports of actual real economic growth (or any subsequent revision thereof) indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than one percent.

"(h) ECONOMIC AND TECHNICAL ASSUMPTIONS.—In all reports required by this section, OMB shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.

"(i) PRINTING OF REPORTS.—Each report submitted under this section shall be submitted to the Federal Register on the day that it is issued and printed on the following day.

"SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

"(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act, or in benefits payable under section 3(a), 3(f)(3), 4(a), or 4(f) of the Railroad Retirement Act of 1974, shall be exempt from reduction under any order issued under this part.

"(b) NET INTEREST.—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this part.

"(c) VETERANS PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

National Service Life Insurance Fund (36–8132–0–7–701);

Service-Disabled Veterans Insurance Fund (36–4012–0–3–701);

Veterans Special Life Insurance Fund (36–8455–0–8–701);

Veterans Reopened Insurance Fund (36–4010–3–701);

United States Government Life Insurance Fund (36–8150–0–7–701);

Veterans Insurance and Indemnity (36–0120–0–1–701);

Special Therapeutic and Rehabiliation Activities Fund (36–4048–0–3–703);

Veterans' Canteen Service Revolving Fund (36–401–0–3–705);

Benefits under chapter 21 of title 38, United States Code, relating to specially adapted housing and

mortgage-protection life insurance for certain veterans with service-connected disabilities (36–0137–0–1–702);

Benefits under section 907 of title 38, United States Code, relating to burial benefits for veterans who die as a result of service-connected disability (36–0155–0–1–701);

Benefits under chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled and members of the Armed Forces (36–0137–0–1–702);

Veterans' compensation (36–0153–0–1–701); and

Veterans' pensions (36–0154–0–1–701).

"(d) EARNED INCOME TAX CREDIT.—Payments to individuals made pursuant to section 32 of the Internal Revenue Code of 1954 shall be exempt from reduction under any order issued under this part.

"(e) TREATMENT OF PAYMENTS AND ADVANCES MADE WITH RESPECT TO UNEMPLOYMENT COMPENSATION PROGRAMS.—For purposes of this part—

"(1) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act),

"(2) any advance made to a State from the Federal unemployment account (established by

section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act, and

"(3) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account,

shall be exempt from reduction under any order issued under this part.

"(f) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

Aid to families with dependent children (75-0412-0-1-609);

Child nutrition (12-3539-0-1-605);

Commodity supplemental food program (12-3512-0-1-605);

Food stamp programs (12-3505-0-1-605 and 12-3550-0-1-605);

Grants to States for Medicaid (75-0512-0-1-551);

Supplemental Security Income Program (75–0406–0–1–609); and

Women, infants, and children program (12–3510–0–1–605).

"(g) NON-DEFENSE UNOBLIGATED BALANCES.—Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense category, shall be exempt from reduction under any order issued under this part.

"(h) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

"(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

"(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

"(i) OTHER PROGRAMS AND ACTIVITIES.—

"(1) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

Activities resulting from private donations, bequests, or voluntary contributions to the Government;

Administration of Territories, Northern Marianna Islands Government grants (14–0412–0–1–806);

Alaska Power Administration, Operations and maintenance (89–0304–0–1–271);

Appropriations for the District of Columbia (to the extent they are appropriations of locally raised funds);

Bonneville Power Administration fund and borrowing authority established pursuant to section 13 of Public Law 93–454 (1974), as amended (89–4045–0–3–271);

Black lung benefits (20–8144–0–7–601),

Bureau of Indian Affairs, miscellaneous payments to Indians (14–2303–0–1–452);

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14–9973–0–7–999);

CIA retirement and disability system fund (56–3400–01–054);

Civil Service retirement and disability fund (24–8135–0–7–602);

Claims, defense (97–0102–0–1–051);

Claims, judgments, and relief acts (20–1895–0–1–806);

Coinage profit fund (20–5811–0–2–803);

Compact of Free Association, economic assistance pursuant to Public Law 99–658;

Compensation of the President (11–0001–0–1–802);

Comptroller General retirement system (05–0107–0–1–801);

Comptroller of the Currency;

Customs service permanent appropriations (20–9922–0–2–852);

Director of the Office of Thrift Supervision;

Dual benefits payments account (60–0111–0–1–601);

Eastern Indian and land claims settlement fund (14–2202–0–1–806);

Exchange stabilization fund (20–4444–0–3–155);

Farm Credit System Financial Assistance Corporation, interest payments;

Federal Deposit Insurance Corporation;

Federal Deposit Insurance Corporation, Bank Insurance Fund;

Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

Federal Housing Finance Board;

Federal payment to the railroad retirement account (60–0113–0–1–601);

Foreign military sales trust fund (11–8242–0–7–155);

Foreign service retirement and disability fund (19–8186–0–7–602);

Health professions graduate student loan insurance fund (Health Education Assistance Loan Program) (75–4305–0–3–553);

Higher education facilities loans and insurance (91–0240–0–1–502);

Internal Revenue collections for Puerto Rico (20–5737–0–2–852);

Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect;

Judicial survivors' annuities fund (10–8110–0–7–602);

Longshoremens' and harborworkers' compensation benefits (16–9971–0–7–601);

Medical facilities guarantee and loan fund, Federal interest subsidies for medical facilities (75–4430–0–3–551);

Military retirement fund (97–8097–0–7–602);

National Credit Union Administration;

National Credit Union Administration, central liquidity facility;

National Credit Union Administration, credit union share insurance fund;

National Oceanic and Atmospheric Administration retirement (13–1450–0–1–306);

Panama Canal Commission, operating expenses and Panama Canal Commission, capital outlay (95–5190–0–2–403);

Payment of Vietnam and USS Pueblo prisoner-of-war claims (15–0104–0–1–153);

Payment to civil service retirement and disability fund (24–0200–0–1–805);

Payments to copyright owners (03–5175–0–2–376);

Payments to health care trust funds (75-0580-0-1-572);

Payments to military retirement fund (97-0040-0-1-054);

Payments to social security trust funds (75-0404-0-1-571);

Payments to the foreign service retirement and disability fund (11-1036-0-1-153 and 19-0540-0-1-153);

Payments to the United States territories; fiscal assistance;

Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds;

Payments to widows and heirs of deceased Members of Congress (00-215-0-1-801);

Pensions for former Presidents (47-0105-0-1-802);

Postal service fund (18-4020-0-3-372);

Railroad retirement tier II (60-8011-0-7-601);

Resolution Funding Corporation;

Resolution Trust Corporation;

Retired pay, Coast guard (69-0241-0-1-403);

Retirement pay and medical benefits for commssioned officers, Public Health Service (75–0379–0–1–551);

Salaries of Article III judges;

Special benefit, Federal Employee's Compensation Act (16–1521–0–1–600);

Special benefits for disabled coal miners (75–0409–0–1–601);

Soldiers and Airmen's Home, payment of claims (84–8930–0–7–705);

Southeastern Power Administration, Operations and maintenance (89–0302–0–1–271);

Southwestern Power Administration, Operations and maintenance (89–0303–0–1–271);

Tax Court judges survivors annuity fund (23–8115–0–7–602);

Tennessee Valley Authority fund, except nonpower programs and activities (64–4110–0–3–999);

Thrift Savings Fund (26–8141–0–7–602);

WMATA, interest payments (46–0300–0–1–401);

Western Area Power Administration, Construction, rehabilitation, operations, and maintenance (89–5068–0–2–271); and

Western Area Power Administration, Colorado River basins power marketing fund (89-4452-0-3-271).

Western Area Power Administration, Colorado River basins power marketing fund (89-4452-0-3-271);

"(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:

Agency for International Development, Housing, and other credit guarantee programs (72-4340-0-3-151);

Agricultural credit insurance fund (12-4140-0-3-351);

Biomass energy development (20-0114-0-1-271);

Check forgery insurance fund (20-4109-0-3-803);

Community development grant loan guarantees (86-0162-0-1-451);

Credit union share insurance fund (25-4468-0-3-371);

Economic development revolving fund (13-4406-0-3-452);

Employees life insurance fund (24–8424–0–8–602);

Energy security reserve (Synthetic Fuels Corporation) (20–0112–0–1–271);

Export-Import Bank of the United States, Limitation of program activity (83–4027–0–3–155);

Federal Aviation Administration, Aviation insurance revolving fund (69–4120–0–3–402);

Federal Crop Insurance Corporation fund (12–4085–0–3–351);

Federal Emergency Management Agency, National flood insurance fund (58–4236–0–3–453);

Federal Emergency Management Agency, National insurance development fund (58–4235–0–3–451);

Federal Housing Administration fund (86–4070–0–3–371);

Federal ship financing fund (69–4301–0–3–403);

Federal ship financing fund, fishing vessels (13–4417–0–3–376);

Geothermal resources development fund (89–0206–0–1–271);

Government National Mortgage Association, Guarantees of mortgage-backed securities (86–4238–0–3–371);

Health education loans (75–4307–0–3–553);

Homeowners assistance fund, Defense (97–4090–0–3–051);

Indian loan guarantee and insurance fund (14–4410–0–3–452);

International Trade Administration, Operations and administration (13–1250–0–1–376);

Low-rent public housing, Loans and other expenses (86–4098–0–3–604);

Maritime Administration, War-risk insurance revolving fund (69–4302–0–3–403);

Overseas Private Investment Corporation (71–4030–0–3–151);

Pension Benefit Guaranty Corporation fund (16–4204–0–3–601);

Rail service assistance (69–0122–0–1–401);

Railroad rehabilitation and improvement financing fund (69–4411–0–3–401);

Rural development insurance fund (12–4155–0–3–452);

Rural electric and telephone revolving fund (12–4230–8–3–271);

Rural housing insurance fund (12–4141–0–3–371);

Small Business Administration, Business loan and investment fund (73–4154–0–3–376);

Small Business Administration, Lease guarantees revolving fund (73–4157–0–3–376);

Small Business Administration, Pollution control equipment contract guarantee revolving fund (73–4147–0–3–376);

Small Business Administration, Surety bond guarantees revolving fund (73–4156–0–3–376);

Veterans Administration, Loan guaranty revolving fund (36–4025–0–3–704);

Veterans Administration, Servicemen's group life insurance fund (36–4009–0–3–701).

"(j) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (f) and (h), programs are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government, 1986—Appendix.

"(k) TREATMENT OF FEDERAL ADMINISTRATIVE EXPENSES.—

"(1) Notwithstanding any other provision of this title, administrative expenses incurred by the departments and agencies, including independent agencies, of

the Federal Government in connection with any program, project, activity, or account shall be subject to reduction pursuant to an order issued under section 255, without regard to any exemption, exception, limitation, or special rule which is otherwise applicable with respect to such program, project, activity, or account under this part.

"(2) Notwithstanding any other provision of law, administrative expenses of any program, project, activity, or account which is self-supporting and does not receive appropriations shall be subject to reduction under a sequester order, unless specifically exempted in this joint resolution.

"(3) Payments made by the Federal Government to reimburse or match administrative costs incurred by a State or political subdivision under or in connection with any program, project, activity, or account shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to reduction or sequestration under this part to the extent (and only to the extent) that other payments made by the Federal Government under or in connection with that program, project, activity, or account are subject to such reduction or sequestration; except that Federal payments made to a State as reim-

bursement of administrative costs incurred by such State under or in connection with the unemployment compensation programs specified in subsection (h)(1) shall be subject to reduction or sequestration under this part notwithstanding the exemption otherwise granted to such programs under that subsection.

"(4) The previous provisions of this subsection shall not apply with respect to the following:

"(A) Comptroller of the Currency.

"(B) Federal Deposit Insurance Corporation.

"(C) Office of Thrift Supervision.

"(D) National Credit Union Administration.

"(E) National Credit Union Administration, central liquidity facility.

"(F) Federal Retirement Thrift Investment Board.

"(G) Resolution Funding Corporation.

"(H) Resolution Trust Corporation.

"SEC. 256. SPECIAL RULES.

"(a) AUTOMATIC SPENDING INCREASES.—Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

"(1) National Wool Act;

"(2) Special milk program; and

"(3) Vocational rehabilitation.

In those programs all amounts other than the automatic spending increases shall be exempt from reduction under any order issued under this part.

"(b) EFFECT OF ORDERS ON THE GUARANTEED STUDENT LOAN PROGRAM.—"(1) Any reductions which are required to be achieved from the student loan programs operated pursuant to part B of title IV of the Higher Education Act of 1965, as a consequence of an order issued pursuant to section 254, shall be achieved only from loans described in paragraphs (2) and (3) by the application of the measures described in such paragraphs.

"(2) For any loan made during the period beginning on the date that an order issued under section 254 takes effect with respect to a fiscal year and ending at the close of such fiscal year, the rate used in computing the special allowance payment pursuant to section 438(b)(2)(A)(iii) of such Act for each of the first four special allowance payments for such loan shall be adjusted by reducing such rate by the lesser of—

"(A) 0.40 percent, or

"(B) the percentage by which the rate specified in such section exceeds 3 percent.

"(3) For any loan made during the period beginning on the date that an order issued under section 254 takes effect with respect to a fiscal year and ending at the close of such

fiscal year, the origination fee which is authorized to be collected pursuant to section 438(c)(2) of such Act shall be increased by 0.50 percent.

(c) TREATMENT OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.—Any order issued by the President under section 254 shall make the reduction which is otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act) only with respect to payments and expenditures made by States in which increases in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act (for such fiscal year) for that portion of the State's payments which is attributable to the increases taking effect during that year. No State may, after the date of the enactment of this Act, make any change in the timetable for making payments under a State plan approved under part E of title IV of the Social Security Act which has the effect of changing the fiscal year in which expenditures under such part are made.

"(d) SPECIAL RULES FOR MEDICARE PROGRAM.—

"(1) MAXIMUM PERCENTAGE REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by sections 252 and 253, OMB shall determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply to payments under the health insurance programs under title XVIII of the Social Security Act for services furnished in the fiscal year after the order is issued, such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that fiscal year as determined on a 12-month basis.

"(2) TIMING OF APPLICATION OF REDUCTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished during the effective period of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

"(B) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the effective period of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the effective period of the order.

"(3) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under paragraph (1) for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1), of such Act, the person furnishing the services shall be considered to have ac-

cepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

"(4) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

"(e) CERTAIN HEALTH PROGRAMS.—The maximum permissible reduction in new budget authority for the following programs for any fiscal year pursuant to a sequestration under sections 251, 252, or 253 is 2 percent:

"(1) Community health centers (75–0350–0–1–550).

"(2) Migrant health centers (75–0350–0–1–550).

"(3) Indian health facilities (75–0391–0–1–551).

"(4) Indian health services (75–0390–0–1–551).

"(5) Veterans' medical care (36–0160–0–1–703).

"(f) TREATMENT OF CHILD SUPPORT ENFORCEMENT PROGRAM.—Notwithstanding any change in the display of budget accounts, any order issued by the President under section 254 shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the

Social Security Act by reducing the Federal matching rate for State administrative costs under such program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

"(g) EXTENDED UNEMPLOYMENT COMPENSATION.—(1) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under section 254 by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

"(2) A reduction by a State in accordance with paragraph (1) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1954.

"(h) COMMODITY CREDIT CORPORATION.—

"(1) IN GENERAL.—Except as modified by existing law enacted after 1985, this subsection shall govern any sequestration of the Commodity Credit Corporation.

"(2) POWERS AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION.—This title shall not

restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

"(3) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS.—(A) Payments and loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 254 shall not be reduced by an order subsequently issued. Subject to subparagraph (B), after an order is issued under such section for a fiscal year, any cash payments made by the Commodity Credit Corporation—

"(i) under the terms of any one-year contract entered into in such fiscal year and after the issuance of the order; and

"(ii) out of an entitlement account,

to any person (including any producer, lender, or guarantee entity) shall be subject to reduction under the order.

"(B) Each contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under sub-

paragraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of an order under section 254, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for the next succeeding crop of the commodity, under the authority provided in paragraph (4).

"(3) DELAYED REDUCTION IN OUTLAYS PERMISSIBLE.—Notwithstanding any other provision of this law, if an order under section 254 is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (2) may provide for reductions in outlays for the account involved to occur in the fiscal year following the fiscal year to which the order is issued. No other account, or other program, project, or activity, shall bear an increased reduction for the fiscal year to which the order applies as a result of the operation of the preceding sentence.

"(5) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS.—All reductions described in paragraph (3) which are required to be made

in connection with an order issued under section 254 with respect to a fiscal year—

"(A) shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order; and

"(B) with respect to commodity price support and income protection programs, shall be made in such manner and under such procedures as will attempt to ensure that—

"(i) uncertainty as to the scope of benefits under any such program is minimized;

"(ii) any instability in market prices for agricultural commodities resulting from the reduction is minimized; and

"(iii) normal production and marketing relationships among agricultural commodities (including both contract and non-contract commodities) are not distorted.

In meeting the criterion set out in clause (iii) of subparagraph (B) of the preceding sentence, the

President shall take into consideration that reductions under an order may apply to programs for two or more agricultural commodities that use the same type of production or marketing resources or that are alternative commodities among which a producer could choose in making annual production decisions.

"(6) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this joint resolution shall limit or reduce, in any way, any appropriation that provides the Commodity Credit Corporation with funds to cover the Corporation's net realized losses.

"(i) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

"(A) Budgetary resources sequestered from any account other than a trust fund account shall permanently revert to the Treasury.

"(B) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the most recently enacted appropriation Act covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

"(C) Administrative regulations or similar actions implementing a sequestration shall be made within 90 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.

"(D) Except as otherwise provided, obligations in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

"(E) If an automatic spending increase is sequestered, the increase (in the applicable index) that was disregarded as a result of that sequestration shall not be taken into account in any fiscal year.

"(F) Except as otherwise provided, sequestration in accounts for which program obligations are indefinite shall be taken in a manner to ensure, to the greatest extent possible, that program obligations in the fiscal year of a sequestration are reduced, from the level that would actually have occurred, by the applicable sequestration percentage.

"SEC. 257. THE BASELINE.

"(a) IN GENERAL.—For any budget year, the baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date.

"(b) REVENUES, FEES, AND DIRECT SPENDING.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

"(1) IN GENERAL.—Revenue laws, laws providing for fees, and laws providing or creating direct spending are assumed to operate in the manner specified in those laws for each such year and funding for spending requirements is assumed to be adequate to make all payments required by those laws.

"(2) EXCEPTIONS.—(A) No program with estimated current-year outlays greater than $50 million shall be assumed to expire in the budget year or outyears.

"(B) Agricultural price support programs administered through the Commmodity Credit Corporation are assumed to be extended under the terms, support prices, loan rates, and other rates of payment in effect the day before the expiration of the Food Security Act of 1985 or the Food and Agricultural Resources Act of 1990, as applicable.

"(C) The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session.

"(D) Excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates.

"(3) HEALTH INSURANCE TRUST FUND.—Notwithstanding any other provision of law, the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.

"(c) DISCRETIONARY APPROPRIATIONS.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions regarding all amounts other than those covered by subsection (b):

"(1) INFLATION OF CURRENT-YEAR APPROPRIATIONS.—Budgetary resources other than unobligated balances shall be at the level provided for the budget year in full-year appropriation Acts. If for any account a full-year appropriation has not yet been enacted, budgetary resources other than unobligated balances shall be at the level available in the current year, adjusted sequentially and cumulatively for expiring housing contracts as specified in paragraph (2), for social insurance administrative expenses as specified in para-

graph (3), for pay annualization as specified in paragraph (4), for inflation as specified in paragraph (5), and to account for changes required by law in the level of agency payments for personnel benefits other than pay.

"(2) EXPIRING HOUSING CONTRACTS.—New budget authority to renew expiring multiyear subsidized housing contracts shall be adjusted to reflect the difference in the number of such contracts that are scheduled to expire in that fiscal year and the number expiring in the current year, with the per-contract renewal cost equal to the average current-year cost of renewal contracts.

"(3) SOCIAL INSURANCE ADMINISTRATIVE EXPENSES.—Budgetary resources for the administrative expenses of social insurance trust funds shall be adjusted by the percentage change in the beneficiary population from the current year to that fiscal year.

"(4) PAY ANNUALIZATION.—If current-year pay adjustments for Federal employees occur on a date other than October 1 of the current year, current-year new budget authority for such employees shall be adjusted by the percentage necessary to reflect the 12-month cost of those adjustments.

"(5) INFLATORS.—The inflator used in paragraph (1) to adjust budgetary resources relating to personnel shall be the percent by which the average of the Bureau of Labor Statistics Employment Cost Index (excluding sales) for that fiscal year differs from such index for the current year. The inflator used in paragraph (1) to adjust all other budgetary resources shall be the percent by which the average of the estimated gross national product fixed-weight price deflator for that fiscal year differs from the average of such estimated deflator for the current year.

"(6) CURRENT-YEAR APPROPRIATIONS.—If, for any account, a continuing appropriation is in effect for less than the entire current year, then the current-year amount shall be assumed to equal the amount that would be available if that continuing appropriation covered the entire fiscal year. If law permits the transfer of budget authority among budget accounts in the current year, the current-year level for an account shall reflect transfers accomplished by the submission of, or assumed for the current year in, the President's original budget for the budget year.

"(d) ASSET SALES AND LOAN PREPAYMENTS.—The proceeds of asset sales and loan prepayments shall be treated as means of financing the deficit.

"(e) UP-TO-DATE CONCEPTS.—In deriving the baseline for any budget year or outyear, current-year amounts shall be calculated using the concepts and definitions that are required for that budget year.

"SEC. 258. SUSPENSION IN THE EVENT OF WAR OR LOW GROWTH.

"(a) PROCEDURES IN THE EVENT OF A LOW GROWTH REPORT.—

"(1) TRIGGER.—Whenever CBO issues a low-growth report under section 254(g), the Majority Leader of each House shall introduce a joint resolution (in the form set forth in paragraph (2)) declaring that the conditions specified in section 254(g) are met and suspending the relevant provisions of this title, title VI of the Congressional Budget Act of 1974, and section 1103 of title 31, United States Code.

"(2) FORM OF JOINT RESOLUTION.—

"(A) The matter after the resolving clause in any joint resolution introduced pursuant to paragraph (1) shall be as follows: 'That the Congress declares that the conditions specified in section 254(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 are met, and the implementation of the Congressional Budget and Impoundment Control Act of 1974, chapter 11 of

title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are modified as described in section 258(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.'.

"(B) The title of the joint resolution shall be 'Joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985.'; and the joint resolution shall not contain any preamble.

"(3) COMMITTEE ACTION.—Each joint resolution introduced pursuant to paragraph (1) shall be referred to the appropriate committees of the House involved; and such Committee shall report the joint resolution to its House without amendment on or before the fifth day on which such House is in session after the date on which the joint resolution is introduced. If the Committee fails to report the joint resolution within the five-day period referred to in the preceding sentence, it shall be automatically discharged from further consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar.

"(4) CONSIDERATION OF JOINT RESOLUTION.—

"(A) A vote on final passage of a joint resolution reported to the Senate or discharged pursuant to paragraph (3) shall be taken on or before the close of the fifth calendar day of session after the date on which the joint resolution is reported or after the Committee has been discharged from further consideration of the joint resolution. If prior to the passage by one House of a joint resolution of that House, that House receives the same joint resolution from the other House, then—

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

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

When the joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a House joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a Senate joint resolution agreed to in the Senate) shall cause the joint resolution to be engrossed, certified, and transmitted to the other House of the Congress as soon as practicable.

"(B)(i) A motion in the Senate to proceed to the consideration of a joint resolution under this paragraph shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the Senate on a joint resolution under this paragraph, and all debatable motions and appeals in connection therewith, shall be limited to not more than five hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(iii) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution under this paragraph shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

"(iv) A motion in the Senate to further limit debate on a joint resolution under this paragraph is not debatable. A motion to table or to recommit a joint resolution under this paragraph is not in order.

"(C) No amendment to a joint resolution considered under this paragraph shall be in order in the Senate.

"(b) SUSPENSION OF SEQUESTRATION PROCEDURES.—Upon the enactment of a declaration of war or a joint resolution described in subsection (a)—

"(1) the subsequent issuance of any sequestration report or any sequestration order is precluded;

"(2) titles III and VI of the Congressional Budget Act of 1974 are suspended; and

"(3) section 1103 of title 31, United States Code, is suspended.

"(c) RESTORATION OF SEQUESTRATION PROCEDURES.—

"(1) In the event of a suspension of sequestration procedures due to a declaration of war, then, effective with the first fiscal year that begins in the session after the state of war is concluded by Senate ratification of the necessary treaties, the provisions of subsection (b)

triggered by that declaration of war are no longer effective.

"(2) In the event of a suspension of sequestration procedures due to the enactment of a joint resolution described in subsection (a), then, effective with regard to the first fiscal year beginning at least 9 months after the enactment of that resolution, the provisions of subsection (b) triggered by that resolution are no longer effective.

"SEC. 259. MODIFICATION OF PRESIDENTIAL ORDER.

"(a) INTRODUCTION OF JOINT RESOLUTION.—At any time after the Director of OMB issues a report under section 254(d)(1) or (e)(1) for a fiscal year, but before the close of the tenth calendar day of session in that session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 254(d)(2) or (e)(2) for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

"(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

"(1) REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate under subsection (a) shall be referred to a committee of the Senate and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

"(2) CONSIDERATION IN THE SENATE.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III, IV, or VI of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The motion is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a

motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(3) DEBATE IN THE SENATE.—

"(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

"(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order, and a motion to recommit the joint resolution is not in order.

"(C)(i) No amendment that is not germane or relevant to the provisions of the joint resolution or

to the order issued under section 254(d)(2) or (e)(2) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

"(ii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any amendments under paragraph (3), the vote on final passage of the joint resolution shall occur.

"(5) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(6) CONFERENCE REPORTS.—In the Senate, points of order under titles III, IV, and VI of the Congressional Budget Act of 1974 are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(7) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:

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

"(B) With respect to a joint resolution introduced under subsection (a) in the Senate—

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

"(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

"(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

"(8) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then

the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.".

PART II—RELATED AMENDMENTS

SEC. 14111. TEMPORARY AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

Title VI of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE VI—BUDGET AGREEMENT ENFORCEMENT PROVISIONS

"SEC. 601. DEFINITIONS.

"As used in this title and for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985:

"(1) MAXIMUM DEFICIT AMOUNT.—The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1991, $302,300,000,000;

"(B) with respect to fiscal year 1992, $276,800,000,000;

"(C) with respect to fiscal year 1993, $189,700,000,000;

"(D) with respect to fiscal year 1994, $58,100,000,000; and

"(E) with respect to fiscal year 1995, $18,700,000,000.

"(2) DISCRETIONARY SPENDING LIMIT.—The term 'discretionary spending limit' means—

"(A) with respect to fiscal year 1991—

"(i) for the defense category: $288,918,000,000 in new budget authority and $297,659,000,000 in outlays;

"(ii) for the international category: $20,100,000,000 in new budget authority and $18,600,000,000 in outlays; and

"(iii) for the domestic category: $182,700,000,000 in new budget authority and $198,100,000,000 in outlays;

"(B) with respect to fiscal year 1992—

"(i) for the defense category: $291,643,000,000 in new budget authority and $295,744,000,000 in outlays;

"(ii) for the international category: $20,500,000,000 in new budget authority and $19,100,000,000 in outlays; and

"(iii) for the domestic category: $191,300,000,000 in new budget authority and $210,100,000,000 in outlays;

"(C) with respect to fiscal year 1993—

"(i) for the defense category: $291,785,000,000 in new budget authority and $292,686,000,000 in outlays;

"(ii) for the international category: $21,400,000,000 in new budget authority and $19,600,000,000 in outlays; and

"(iii) for the domestic category: $198,300,000,000 in new budget authority and $221,700,000,000 in outlays;

"(D) with respect to fiscal year 1994, for the discretionary category: $510,800,000,000 in new budget authority and $534,800,000,000 in outlays; and

"(E) with respect to fiscal year 1995, for the discretionary category: $517,700,000,000 in new budget authority and $540,800,000,000 in outlays.

"SEC. 602. 5-YEAR BUDGET RESOLUTIONS.

"In the case of any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995, that resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of the calendar year in which it is reported and for each of the 4 succeeding fiscal years.

"SEC. 603. COMMITTEE ALLOCATIONS AND ENFORCEMENT.

" (a) COMMITTEE SPENDING ALLOCATIONS.—

"(1) HOUSE OF REPRESENTATIVES.—

"(A) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years) of—

"(i) total new budget authority,

"(ii) total entitlement authority, and

"(iii) total outlays;

among each committee of the House of Representatives that has jurisdiction over legislation providing or creating such amounts.

"(B) NO DOUBLE COUNTING.—Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

"(C) FURTHER DIVISION OF AMOUNTS.—The amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to

the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

"(2) SENATE ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of—

"(A) total new budget authority, and

"(B) total outlays;

among each committee of the Senate that has jurisdiction over legislation providing or creating such amounts.

"(3) AMOUNTS NOT ALLOCATED.—If a committee receives no allocation of new budget authority, entitlement authority, or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement authority, or outlays.

"(b) SUBALLOCATIONS BY THE APPROPRIATIONS COMMITTEES.—

"(1) INITIAL SUBALLOCATIONS.—As soon as practicable after a budget resolution is agreed to, the

Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a)(1)(C) among its subcommittees.

"(2) FILING.—Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this subsection.

"(c) APPLICATION OF SECTION 302 (F) TO THIS SECTION.—In fiscal years through 1995, reference in section 302(f) to the appropriate allocation made pursuant to section 302(b) for a fiscal year shall, for purposes of this section, be deemed to be a reference to any allocation made under subsection (a) or any suballocation made under subsection (b), as applicable, for the budget year or for the total of all fiscal years made by the joint explanatory statement accompanying the applicable concurrent resolution on the budget.

"(d) APPLICATION OF SUBSECTIONS (a) AND (b) TO FISCAL YEARS 1992 TO 1995.—In the case of concurrent resolutions on the budget for fiscal years 1992 through 1995, allocations shall be made under subsection (a) instead of section 302(a) and shall be made under subsection (b) instead of section 302(b). For those fiscal years, all references in section 302 (c), (d), (e), and (f) to section 302(a) shall be deemed to be to subsection (a) (including revisions made under section

604) and all such references to section 302(b) shall be deemed to be to subsection (b) (including revisions made under section 604).".

"(e) PAY-AS-YOU-GO EXCEPTION.—Section 302(f)(1) shall not apply to any bill, resolution, or conference report if—

"(A) the enactment of such bill or resolution as reported;

"(B) the adoption and enactment of such amendment; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report,

would not increase the deficit set forth in the most recently agreed to concurrent resolution on the budget for any fiscal year covered by that concurrent resolution.".

"SEC. 604. CONSIDERATION OF LEGISLATION BEFORE ADOPTION OF BUDGET RESOLUTION FOR THAT FISCAL YEAR.

"(a) ADJUSTING SECTION 603 ALLOCATION OF DISCRETIONARY SPENDING.—If a concurrent resolution on the budget is not adopted by April 15, the chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate

shall submit to their respective Houses, as soon as practicable, a revised section 603(a) allocation to the Committee on Appropriations of that House consistent with the discretionary spending limits contained in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.

"(b) As soon as practicable after a revised section 603(a) allocation is submitted, the Committee on Appropriations of each House shall make revised suballocations and promptly report those revised suballocations to its House.

"SEC. 605. RECONCILIATION DIRECTIVES REGARDING PAY-AS-YOU-GO REQUIREMENTS.

"(a) INSTRUCTIONS TO EFFECTUATE PAY-AS-YOU-GO.—If legislation providing for a net reduction in revenues in any fiscal year (that, within the same measure, is not fully offset in that fiscal year by reductions in direct spending) is enacted, the Committee on the Budget of the House of Representatives or the Senate may report, within 15 legislative days during a Congress, a pay-as-you-go reconciliation directive in the form of a concurrent resolution—

"(1) specifying the total amount by which revenues sufficient to eliminate the net deficit increase resulting from that legislation in each fiscal year are to be changed; and

"(2) directing that the committees having jurisdiction determine and recommend changes in the revenue law, bills, and resolutions to accomplish a change of such total amount.

"(b) CONSIDERATION OF PAY-AS-YOU-GO RECONCILIATION DIRECTIVE.—In the Senate, section 305(b) shall apply to the reconciliation directive described in subsection (a) in the same manner as if it were a concurrent resolution on the budget.

"(c) CONSIDERATION OF PAY-AS-YOU-GO RECONCILIATION LEGISLATION.—In the House of Representatives and in the Senate, subsections (b) through (e) and (g) of section 310 shall apply in the same manner as if the reconciliation directive described in subsection (a) were a concurrent resolution on the budget.

SEC. 606. APPLICATION OF SECTION 311.

"In the application of section 311(a) to any bill, resolution, amendment, or conference report, reference in section 311 to the appropriate level of total budget authority or total budget outlays or appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate level for that year and the 4 succeeding years.

"SEC. 607. BUDGET RESOLUTIONS MUST CONFORM TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

"It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301 that is inconsistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that fiscal year.".

"SEC. 608. EFFECTIVE DATES.

This title shall take effect upon its date of enactment and shall apply to fiscal years 1991 to 1995.".

SEC. 14112. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.—

(1) TABLE OF CONTENTS.—Section 1(B) of the Congressional Budget and Impoundment Control Act of 1974 is amended to reflect the new section numbers and headings created by this title.

(2) SECTION 3.—Section 3 of such Act is amended—

(A) by striking paragraphs (6) through (10) and by inserting the following:

"(6) The term 'deficit' means, with respect to a fiscal year, the amount by which outlays exceeds receipts during that year.

"(7) The term 'surplus' means, with respect to a fiscal year, the amount by which receipts exceeds outlays during that year.

(3) SECTION 202.—Section 202(a)(1) and the second sentence of 202(f)(1) of such Act are amended by striking "budget authority" and inserting "new budget authority" .

(4) SECTION 300.—Section 300 of such Act is amended by striking "First Monday after January 3" and by inserting "First Monday in February".

(5) SECTION 304.—Section 304 of such Act is amended by striking subsection (b) and by striking "(c)" and inserting "(b)".

(6) SECTION 301(i).—Section 301(i) of such Act is repealed.

(7) SECTION 311(A).—Section 311(a) of such Act is amended by striking "or, in the Senate" and all that follows thereafter through "paragraph (2) of such subsection".

(8) SECTION 904.—Section 904 of such Act is amended by striking "and" after "III", by inserting ",

V, and VI (except section 601)" after "IV", and by striking "606,".

(b) CONFORMING AMENDMENT TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Subsection (b) of section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(b) EXPIRATION.—Part C of this title, section 271(b) of this Act, and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire September 30, 1995.".

(c) CONFORMING AMENDMENTS TO SECTION 1105 OF TITLE 31, UNITED STATES CODE.—

(1) SECTION 1105(A).—Section 1105(a) of title 31, United States Code, is amended by striking "first Monday after January 3" and by inserting "first Monday in February"

(2) SECTION 1105(F).—Section 1105(f) of title 31, United States Code, is amended to read as follows:

"(f) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that fiscal year.".

(d) CONFORMING AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES.—

(1) CROSS-REFERENCE.—Clause 1(e)(2) of rule X of the Rules of the House of Representatives is amended by striking "(a)(4)".

(2) CROSS-REFERENCE.—Clause 1(e)(2) of rule X of the House of Representatives is amended by striking "Act, and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985" and inserting "Act".

(3) ALLOCATIONS.—Clause 4(h) of rule X of the House of Representatives is amended by inserting "or section 603 (in the case of fiscal years 1991 through 1995)" after "section 302".

(4) MULTIYEAR REVENUE ESTIMATES.—Clause 7(a)(1) of rule XIII of the House of Representatives is amended by striking ", except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period".

(e) CONFORMING AMENDMENT TO THE STANDING RULES OF THE SENATE.—Paragraph 1(e)(1) of rule XXV of the Standing Rules of the Senate is amended by striking "(a)(4)".

Subtitle B—Permanent Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 14201. CREDIT ACCOUNTING.

Title V of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE V—CREDIT ACCOUNTING

"SEC. 501. COST OF LOANS.

"As used in this title, the term 'cost' or 'cost of loans' means the cost to the Government of any loan (that is, any direct loan or loan guarantee), including the cost of, and receipts from, insurance purchased by the Government, except indirect costs such as administrative costs or any effect on receipts, and shall be calculated as follows:

"(1) DIRECT LOANS.—For a direct loan to the public made by the Government, the difference between the face value of the loan and the net present value of—

"(A) the repayments of principal; and

"(B) payments of interest and other payments;

to the Government by the borrower over the life of the loan, after adjusting for estimated defaults, prepayments, fees, penalties, and any other recoveries.

"(2) LOAN GUARANTEES.—For a loan made by a non-Federal borrower that is guaranteed as to principal or interest, in whole or in part, by the Government, the net present value of (A) estimated payments by the Government to cover defaults, interest subsidies, or other costs, and (B) receipts (such as origination and other fees, penalties, and other recoveries) by the Government.

"(3) ACTIONS THAT ALTER COSTS.—Any Government action that alters estimated loan costs (except modifications within the terms of a loan contract) shall be accounted as increasing or decreasing, as the case may be, the cost to the Government of such loans.

"(4) DISCOUNT RATE.—The estimated average interest rate on new issues of Treasury securities of similar maturity to the loans being estimated shall be used as the discount to present value.

"SEC. 502. BUDGETARY ACCOUNTING.

"(a) NEW BUDGET AUTHORITY.—The authority to incur new direct loan obligations, make new loan guarantee commitments, or directly or indirectly alter the costs of outstanding loans is new budget authority in an amount equal to the cost (as defined in section 501), in the fiscal year in which definite authority becomes available or in which indefinite authority is used.

"(b) OUTLAYS.—Outlays resulting from, and equal in amount to, the amount of new budget authority referred to in subsection (a) that is obligated shall be recorded in the fiscal year in which a loan is disbursed or its cost altered.

"(c) RESIDUAL CASH FLOW.—

"(1) IN GENERAL.—All flows of cash resulting from Federal loan contracts other than the outlays recorded pursuant to subsection (b) shall be a means of financing the deficit.

"(2) REESTIMATES.—Whenever the estimate of the cost of loan obligations or commitments already made for a given program cohort differs from the estimate used when the loans were made, that reestimate shall immediately be reflected in the budget as a change in program costs and as a change in net interest.

"(3) IMPLEMENTATION.—In order to effectuate the accounting required by the previous provisions of this section, (A) the President is authorized to establish such nonbudgetary accounts as may be appropriate, and (B) the Secretary of the Treasury shall borrow from, receive from, lend to, or pay to such accounts such amounts as may be appropriate.

"SEC. 503. CONGRESSIONAL CONTROL OF LOAN COSTS.

"(a) APPROPRIATION REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made after September 30, 1991, only to the extent that appropriations of new budget authority to cover their costs are made, or authority is otherwise provided, in appropriation Acts enacted after January 1, 1991.

"(b) EXEMPTION FOR MANDATORY PROGAMS.—Subsection (a) shall not apply to any loan program that constitutes a spending requirement, and all existing programs funded through the Commodity Credit Corporation.

"SEC. 504. EXECUTIVE BRANCH COST ESTIMATES.

"(a) IN GENERAL.—For the executive branch, all estimates required by this title shall be made by the Director of the Office of Management and Budget after consultation with the agencies that administer loan programs (or, if such authority is delegated, by those agencies), and shall be based upon written guidelines, regulations, or criteria (consistent with the definitions in this title) established by the Director after consultation with Secretary of the Treasury and the Director of the Congressional Budget Office.

"(b) IMPROVING COST ESTIMATES.—The Office of Management and Budget and the Congressional Budget Office shall work together to develop accurate data on the

historical performance of loan programs. They shall annually review loan portfolios to improve estimates of loan costs.

"(c) ACCESS TO DATA.—The Office of Management and Budget, the Treasury, and the Congressional Budget Office shall have access to all agency data that may facilitate the development or improvement of loan cost estimates.

"SEC. 505. BUDGET PRESENTATION OF COSTS.

"(a) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a loan program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's loan cost, but appropriation Acts may transfer funding for those administrative costs to other accounts.

"(b) LOAN COSTS BEFORE FISCAL YEAR 1992.—The Office of Management and Budget shall, to the extent possible, make summary estimates of loan costs incurred in years before fiscal year 1992 and shall make such information available to supplement or adjust (as appropriate) historical data for such years.

"SEC. 506. EFFECTIVE DATES.

"(a) PRESIDENT'S BUDGET.—This title shall apply to budget estimates for loans to be obligated in fiscal year 1992 and thereafter presented in the budgets submitted by the President under section 1105(a) of title 31, United States Code, after the enactment of this title.

"(b) CONGRESSIONAL BUDGET.—This title shall apply to budget estimates for loans to be obligated in fiscal year 1992 and thereafter contained in concurrent resolutions on the budget for fiscal years 1992 and thereafter.

"(c) LOANS OBLIGATED BEFORE FISCAL YEAR 1992.—Net costs of loans obligated before fiscal year 1992 shall be shown in the budget on a cash basis. This subsection shall be deemed to provide authority to make any payments required to be made on such loan contracts.

"SEC. 507. STUDY OF FEDERAL INSURANCE ACCOUNTING.

"The Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each study whether the accounting for Federal deposit insurance programs should be on a cash basis, on the same basis as loan guarantees, or on some other basis. Each Director shall report findings and recommendations to the President and the Congress by August 31, 1991.".

Subtitle C—Social Security

SEC. 14301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

Notwithstanding any other provision of law, the receipts (excluding interest on obligations described in section 201(d) of the Social Security Act) and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as

new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 14302. PROTECTION OF OASDI TRUST FUNDS.

(a) IN GENERAL.—(1) It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or any amendment thereto or conference report thereon, if—

(A) upon enactment—

(i) such legislation under consideration would provide for a net increase in OASDI benefits of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, or

(ii) the net increase in OASDI benefits (for the 5-year period consisting of the fiscal year in which such legislation under consideration would be effective and the next 4 fiscal years) provided by such legislation under consideration, together

with the 5-year net increases in OASDI benefits resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment), exceeds $250,000,000,

and such legislation under consideration does not provide at least a net increase, for the same period referred to in clause (i) or (ii), in OASDI taxes of the amount by which the net increase in such benefits exceeds the amount specified in such clause; or

(B) upon enactment—

(i) such legislation under consideration would provide for a net decrease in OASDI taxes of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, or

(ii) the net decrease in OASDI taxes (for the 5-year period consisting of the fiscal year in which such legislation under consideration would be effective and the next 4 fiscal years) provided by such legislation under consideration, together with the 5-year net decrease in OASDI taxes resulting from previous legislation enacted during

that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment), exceeds $250,000,000,

and such legislation under consideration does not provide at least a net decrease, for the same period referred to in clause (i) or (ii), in OASDI benefits of the amount by which the net decrease in such taxes exceeds the amount specified in such clause.

(2) In applying subparagraph (B) of paragraph (1), any provision of any bill or resolution, or any amendment thereto, or conference report thereon, the effect of which is to provide for a net decrease for any period in taxes described in paragraph (3)(B)(i) shall be disregarded if such bill, resolution, amendment, or conference report also includes a provision the effect of which is to provide for a net increase of at least an equivalent amount for such period in medicare taxes.

(3) For purposes of this subsection:

(A) The term "OASDI benefits" means the benefits under the old-age, survivors, and disability insurance programs under title II of the Social Security Act.

(B) The term "OASDI taxes" means—

(i) the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986, and

(ii) the taxes imposed under chapter 1 of such Code (to the extent attributable to section 86 of such Code).

(C) The term "medicare taxes" means the taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1986.

(D) The term "previous legislation" shall not include legislation enacted before fiscal year 1991.

(E) No provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of OASDI taxes referred to in subparagraph (B)(ii) unless such provision changes the income tax treatment of OASDI benefits.

(b) EXERCISE OF RULEMAKING POWER OF THE HOUSE OF REPRESENTATIVES AND THE SENATE.—Subsection (a) is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as a part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

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

SEC. 14303. REPORT TO THE CONGRESS BY THE BOARD OF TRUSTEES OF THE OASDI TRUST FUNDS REGARDING THE ACTUARIAL BALANCE OF THE TRUST FUNDS.

Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by inserting after the first sentence following clause (5) the following new sentence: "Such statement shall include a finding by the Board of Trustees as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, individually and collectively, are in close actuarial balance (as defined by the Board of Trustees).".

SEC. 14304. EFFECTIVE DATE.

Sections 14301 and 14302, and any amendments made by such sections, shall apply with respect to fiscal years beginning on or after October 1, 1991. Section 14303 shall be effective for annual reports of the Board of Trustees issued in or after calendar year 1991.

Subtitle D—Treatment of Fiscal Year 1991 Sequestration

SEC. 14401. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act, the orders issued by the President on August 27, 1990, and October 15, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby rescinded.

(b) AMOUNTS RESTORED.—Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequestrable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

Subtitle E—Government-sponsored Enterprises

SEC. 14501. FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES.

(a) DEFINITION.—For purposes of this section, the terms "Government-sponsored enterprise" and "GSEs" mean the Farm Credit System (including the Farm Credit Banks, Banks for Cooperatives, Federal Agricultural Mortgage Corporation, and Farm Credit Insurance Corporation), the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, the Federal National

Mortgage Association, and the Student Loan Marketing Association.

(b) TREASURY DEPARTMENT STUDY AND PROPOSED LEGISLATION.—

(1) The Department of the Treasury shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs and recommended legislation.

(2) The study shall include an objective assessment of the financial soundness of GSEs, the adequacy of the existing regulatory structure for GSEs, and the financial exposure of the Federal Government posed by GSEs.

(c) CONGRESSIONAL BUDGET OFFICE STUDY.—

(1) The Congressional Budget Office shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs.

(2) The study shall include an analysis of the financial risks each GSE assumes, how Congress may improve its understanding of those risks, the supervision and regulation of GSEs' risk management, and the financial exposure of the Federal Government posed by GSEs. The study shall also include an analysis of alternative models for oversight of GSEs and of the costs and benefits of each alternative model to the

Government and to the markets and beneficiaries served by GSEs.

(d) ACCESS TO RELEVANT INFORMATION.—

(1) For the studies required by this section, each GSE shall provide full and prompt access to the Secretary of the Treasury and the Director of the Congressional Budget Office to its books and records and other information requested by the Secretary of the Treasury or the Director of the Congressional Budget Office.

(2) In preparing the studies required by this section, the Secretary of the Treasury and the Director of the Congressional Budget Office may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of a GSE.

(e) CONFIDENTIALITY OF RELEVANT INFORMATION.—

(1) The Secretary of the Treasury and the Director of the Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available by a GSE under this section in a manner consistent with the level of confidentiality established for the material by the GSE involved.

(2) The Department of the Treasury and the Congressional Budget Office shall be exempt from section

552 of title 5, United States Code, for any book, record, or information made available under subsection (d) and determined by the Secretary of the Treasury or the Director of the Congressional Budget Office, as appropriate, to be confidential under this subsection.

(3) Any officer or employee of the Department of the Treasury or the Congressional Budget Office shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(A) by virtue of his or her employment or official position, he or she has possession of or access to any book, record, or information made available under and determined to be confidential under this section; and

(B) he or she discloses the material in any manner other than—

(i) to an officer or employee of the Department of the Treasury or the Congressional Budget Office; or

(ii) pursuant to the exception set forth in such section 1906.

(f) REQUIREMENT TO REPORT LEGISLATION.—The committees of jurisdiction in the House and Senate shall prepare and report to the House and Senate, respectively, no later than September 15, 1991, legislation to ensure the fi-

nancial soundness of GSEs and to minimize the possibility that a GSE might require future assistance from the Government.

Passed the House of Representatives October 16, 1990.

Attest:

Clerk.

Printed on recycled paper

☆ U.S. Government Printing Office-1993—357-843